

1 COUNTY COURT OF THE STATE OF NEW YORK

2 COUNTY OF OSWEGO: CRIMINAL TERM:

3 -----x

4 THE PEOPLE OF THE STATE OF NEW YORK

Indict. No.
94C-0161

5

- against-

HEARING
VOLUME 3

6

7 GARY THIBODEAU,

8

Defendant.

9

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10

Public Safety Center
39 Churchill Road
Oswego, NY 13126

11

12 DATE: January 14, 2015

13 B e f o r e:

14

HONORABLE DANIEL R. KING
Acting County Court Judge

15

A p p e a r a n c e s:

16

GREGORY S. OAKES, ESQ.
District Attorney, Oswego County
MARK M. MOODY, ESQ.
Chief Assistant District Attorney

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OFFICE OF THE FEDERAL PUBLIC DEFENDER
BY: LISA PEEBLES, ESQ., Public Defender
RANDI JUDA BIANCO, ESQ., Assistant Public Defender

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Defendant is present

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08:48:16

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I N D E X T O W I T N E S S E S

Direct Cross Redirect Recross

FOR THE DEFENDANT:

Roger Breckenridge	--	--	390	--
Michael Bohrer	406	--	--	--

I N D E X T O E X H I B I T S

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FOR THE DEFENDANT:

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09:28:19 1 THE COURT: Good morning everybody. Do you
09:28:23 2 want to use the --

09:28:24 3 MS. PEEBLES: Yes, I think it's a good idea.

09:29:09 4 (Whereupon, there was a pause in the
09:29:14 5 proceeding.)

09:29:14 6 THE COURT: Okay, Ms. Peebles and Ms. Bianco,
09:29:26 7 do you want to make some record arguments at this time?

09:29:29 8 MS. PEEBLES: Yes, Your Honor.

09:29:30 9 THE COURT: Okay, Ms. Peebles, go ahead.

09:29:32 10 MS. PEEBLES: Yesterday we were approached and
09:29:34 11 asked whether we would be in agreement with going
09:29:38 12 through the boxes that were -- the Heidi Allen
09:29:43 13 investigative boxes at the Sheriff's Department, and in
09:29:47 14 terms of going through them because there was a
09:29:48 15 question about the integrity of the investigation and
09:29:51 16 the Brady material that may or may not still exist, and
09:29:56 17 at that time yesterday it obviously caught us by
09:29:59 18 surprise as it did on Friday when we received the
09:30:05 19 twenty-six hundred pages, and as much as I would love
09:30:08 20 to go through all of those documents, and I could have
09:30:11 21 done that eight months ago, had I been invited I would
09:30:14 22 have, but at this point in time, Your Honor, I simply
09:30:16 23 don't have the resources to spend to go through all of
09:30:19 24 those documents to determine what may or may not be
09:30:22 25 Brady, what may or may not -- should have been

09:30:24 1 disclosed years ago or currently, so in light of that,
09:30:29 2 Your Honor, I have to withdraw my agreement to go with
09:30:33 3 the prosecutor to look at the boxes.

09:30:36 4 I did subpoena Reuel Todd this morning because
09:30:39 5 I would like to question him regarding the integrity.
09:30:43 6 The prosecutor has indicated that he has some serious
09:30:46 7 doubts and questions about the integrity of the
09:30:48 8 investigation and what has not been turned over to the
09:30:51 9 defense, so with that, Your Honor, I have to say that I
09:30:55 10 would continue to want to move forward with the
09:30:59 11 proceedings in the manner in which we are, and I'm not
09:31:01 12 in a position to agree to any type of an adjournment so
09:31:05 13 that they can figure out what they have and what they
09:31:10 14 don't have. Secondly --

09:31:11 15 THE COURT: Before we move to the second
09:31:12 16 point, Mr. Oakes, your response to that?

09:31:14 17 MR. OAKES: Thank you. Your Honor, as Ms.
09:31:25 18 Peebles indicated, previously discussed on Friday my
09:31:28 19 office provided a number of documents and disks and
09:31:32 20 recordings to the Federal Public Defender's Office for
09:31:35 21 their review. Seeing the product that was delivered to
09:31:39 22 them over the course of the weekend, I personally went
09:31:41 23 to the Sheriff's Department, I worked with Investigator
09:31:45 24 Pietroski to review the file so that I could go through
09:31:47 25 personally, make a copy of every piece of paper in the

09:31:50 1 file, front and back, to make sure that everything was
09:31:52 2 turned over to Ms. Peebles.

09:31:55 3 During the course of my personal review of the
09:31:58 4 file, I learned certain statements that we did not --
09:32:02 5 the DA's office did not have in our possession at the
09:32:06 6 time, a lead that was missing, and a lead, again, as we
09:32:12 7 discussed last week, a lead that had not been followed
09:32:15 8 up on. Again, I personally went through, made a copy
09:32:18 9 of all those items, and then scanned those on Monday
09:32:21 10 morning, provided an organized digital copy of all
09:32:25 11 those files with the lead log, each of those leads
09:32:29 12 broken out individually into statements and the reports
09:32:32 13 all individually categorized, and I provided that to
09:32:35 14 the Court and counsel so they would have an organized
09:32:38 15 fashion.

09:32:39 16 Additionally I have provided a three-ring
09:32:42 17 binder to counsel with all the CDs and photographs,
09:32:45 18 interviews and audios with a detailed list of what each
09:32:48 19 one of those were so it could be used for their easy
09:32:51 20 reference. As I indicated over the course of the
09:32:56 21 weekend, on Saturday when I discovered certain new --
09:33:01 22 at least new reviewed by me statement from Romano
09:33:05 23 Clark, I immediately contacted Mr. Clark to see if his
09:33:10 24 statement was in fact true, got good contact
09:33:15 25 information for him, verified his number, and

09:33:18 1 immediately e-mailed Ms. Peebles and the Court and the
09:33:21 2 clerk with that information, and I reached out to Mr.
09:33:25 3 Clark and told him that Ms. Peebles would be reaching
09:33:27 4 out to him, and if she did so, to please respond and
09:33:30 5 please speak with her.

09:33:32 6 On Sunday evening I became aware, finally
09:33:35 7 received a copy of the missing lead, lead number
09:33:37 8 fifteen twenty-nine, had the investigator send me an
09:33:44 9 e-mail detailing that, and saw the SJS report, and that
09:33:48 10 was an individual by the name of Chris Combes. I
09:33:50 11 immediately reached out to Ms. Peebles to let her know
09:33:53 12 of that, again, trying to make a good faith effort. I
09:33:56 13 left voicemail for her. I sent four text messages to
09:34:00 14 her essentially saying urgent regarding Brady, please
09:34:04 15 contact me. I did not get a response back from Ms.
09:34:07 16 Peebles. I even went so far as to contact John O'Brien
09:34:11 17 of the paper who's been in contact with the defense and
09:34:13 18 asked him if he would forward my number on to Mr.
09:34:16 19 Haumann, the investigator for the defense, so that they
09:34:19 20 can reach out to me. I heard nothing.

09:34:21 21 THE COURT: I think Ms. Peebles is talking
09:34:23 22 more about the information that was disclosed yesterday
09:34:26 23 morning, that agreement between the both the Federal
09:34:30 24 Public Defender's Office and the District Attorney's
09:34:34 25 Office as opposed to maybe or possibly calling the AG's

09:34:36 1 office in. There is an agreement between both parties
09:34:39 2 to have your mutual investigators effectively comb the
09:34:44 3 file to find out if there's additional Brady material.
09:34:48 4 Ms. Peebles initially consented to that in her office.
09:34:52 5 She said this morning she's going to withdraw that
09:34:54 6 consent. I'm assuming you don't oppose her withdrawal
09:34:56 7 of that consent, and the burden of proof is still going
09:34:58 8 to remain on the People to continue to seek out Brady
09:35:03 9 information.

09:35:04 10 MR. OAKES: It does, Your Honor, and Your
09:35:06 11 Honor, I was endeavoring to establish a record of the
09:35:08 12 People's attempt to rectify the situation, my office's
09:35:11 13 attempt to make sure that defense has all Brady
09:35:15 14 material, and again, when we became aware of it, again,
09:35:18 15 with Mr. Combes on Sunday evening, I had the
09:35:21 16 investigators from the Sheriff's Department go find
09:35:23 17 him.

09:35:24 18 THE COURT: Sure.

09:35:24 19 MR. OAKES: Get a new statement. I had to go
09:35:27 20 through counsel because he presently has another
09:35:29 21 charge, and again, obtained a statement, and I went so
09:35:33 22 far as to subpoena Mr. Combes for Monday morning so
09:35:36 23 that he would be available for Ms. Peebles to speak
09:35:38 24 with.

09:35:38 25 THE COURT: Okay.

09:35:39 1 MR. OAKES: On Monday evening I learned of a
09:35:42 2 lead from 2002 which involved the name of Tracey
09:35:46 3 Breckenridge. On Monday evening, again, I asked the
09:35:49 4 Sheriff's Department to send investigators to go out,
09:35:53 5 find the relevant people or any associated people with
09:35:55 6 that. They did so. They obtained statements from
09:35:58 7 those individuals, and yesterday morning, again, that
09:36:01 8 was Monday evening, so yesterday, which was Tuesday, I
09:36:04 9 provided those to Ms. Peebles so she had those
09:36:06 10 statements, and additionally, on Monday night I had
09:36:10 11 those four individuals served with subpoenas to be here
09:36:13 12 yesterday at noon so they are available for the
09:36:16 13 defense, and again, I personally introduced Mr. Haumann
09:36:19 14 to those four individuals so that he could speak with
09:36:22 15 them, and it's my understanding that he did speak with
09:36:23 16 them in fact yesterday.

09:36:26 17 Getting to the issue of the agreement, given
09:36:29 18 the concerns regarding the items that were missing,
09:36:32 19 yesterday morning I approached defense counsel and
09:36:35 20 again I expressed concerns about whether she in fact
09:36:38 21 has all Brady material given the condition of the
09:36:41 22 Sheriff's file quite frankly and what I viewed in the
09:36:45 23 last few days. What I suggested to Ms. Peebles is that
09:36:49 24 we bring in the Attorney General's Office's Conviction
09:36:54 25 Integrity Unit to reach out to them, to have them

09:36:57 **1** review not only the Sheriff's file, but I was willing
09:37:00 **2** to offer up the People's file, the DA's Office file, to
09:37:03 **3** make sure that all evidence was turned over, and again,
09:37:07 **4** to make sure that the jury did reach a just outcome. I
09:37:12 **5** wasn't with the office twenty years ago. I have my
09:37:15 **6** view of the evidence at that time but I wasn't there.
09:37:17 **7** My thought is by bringing in a third party, that would
09:37:21 **8** give assurances to all parties and the public and the
09:37:24 **9** Court that this is being done independently, fairly,
09:37:27 **10** without bias. Ms. Peebles had concerns regarding the
09:37:32 **11** length of time that that might take given the
09:37:35 **12** defendant's health, and I understood that, and in fact,
09:37:38 **13** she and Ms. Bianco, I forget which, did actually
09:37:41 **14** propose having one of their investigators and my
09:37:45 **15** investigator go to the Sheriff's Department, so when
09:37:48 **16** they had made that offer, I thought that was
09:37:50 **17** reasonable, I'd accepted that offer, and that's what we
09:37:54 **18** discussed with the Court and stipulated to.

09:37:58 **19** Again, if Ms. Peebles is no longer in a
09:38:02 **20** position to honor that agreement that she made with the
09:38:05 **21** Court and my office, I understand. I do realize that
09:38:08 **22** the burden remains on the People, and I will work with
09:38:11 **23** the Sheriff's Department to provide copies of all
09:38:14 **24** reports, and what I have asked the Sheriff's Department
09:38:17 **25** to do, and actually before our conversation even

09:38:21 1 yesterday, was to go back to June first of 1995 which
09:38:24 2 was during the point of time during the trial of this
09:38:26 3 matter and get all leads paperwork from 1995, June
09:38:30 4 first of 1995 coming forward to today, to make sure
09:38:35 5 that defense counsel has everything, and I realize that
09:38:37 6 burden is on me, not the defense, but again, Your
09:38:41 7 Honor, I wanted to have an open system. The defense
09:38:45 8 has questions, and there's been insinuations or
09:38:49 9 accusations of a coverup, that the Sheriff's Department
09:38:51 10 does not want to fully investigate this at times, the
09:38:55 11 accusations that my office doesn't want to fully
09:38:58 12 investigate this.

09:38:59 13 Your Honor, I have to say right now as I have
09:39:02 14 said from day one, my goal as a prosecutor is to do
09:39:05 15 justice. My goal as a prosecutor is to get to the
09:39:07 16 truth the best we can determine. I was not in the
09:39:11 17 office twenty years ago. I have no vested interest in
09:39:13 18 the conviction of Gary Thibodeau. As I've said to
09:39:16 19 every individual, if he is innocent, I want to be the
09:39:19 20 first person to set him free, I will personally move to
09:39:22 21 that, if I have compelling evidence that he's in fact
09:39:25 22 innocent. If he's guilty, he deserves to be where he's
09:39:29 23 at, but let's have an open and honest process. My view
09:39:32 24 is to put reliable credible evidence before this court
09:39:37 25 so this court can make that determination, but again,

09:39:39 1 to the end of trying to be ethical and fair, trying to
09:39:42 2 get a just outcome, I thought it was appropriate to let
09:39:45 3 the defense personally review the file. That way if
09:39:48 4 there was any question whether a document was Brady or
09:39:51 5 not Brady, whether it potentially could even benefit
09:39:54 6 the defense because if they may have information that I
09:39:57 7 don't, they could look at a piece of paper and think
09:39:59 8 this would help me based on knowledge they have that's
09:40:03 9 peculiar to them or specific to them that I don't have,
09:40:06 10 I want to give them that opportunity.

09:40:09 11 If the defendant and the defense is saying
09:40:11 12 that they aren't willing to go to the Sheriff's
09:40:14 13 Department or unable to because of resources, I accept
09:40:16 14 that. Again, I'm not trying to be argumentative, but
09:40:24 15 Ms. Peebles, Ms. Bianco is here flanked by an
09:40:28 16 investigator, flanked by two technical persons this
09:40:31 17 week, with a staff of five here to put up slides for
09:40:33 18 the Court when the Court has exhibits. The Court, in
09:40:37 19 all due respect, the Court doesn't need a projector,
09:40:41 20 you know. They're saying they don't have the resources
09:40:43 21 to put an investigator to review the file, but they
09:40:46 22 have somebody here to put up images on a screen for the
09:40:48 23 benefit of the media. Again, if that's how they choose
09:40:52 24 to use their resources, that's their choice, Your
09:40:55 25 Honor, I realize the obligation lies with me, but I

09:40:58 1 just want to put it on the record that I want it to be
09:41:01 2 a fair system, that I have made the offer to them to
09:41:03 3 open up the entire sheriff's file and the sheriff has
09:41:06 4 done that too. I spoke with the sheriff personally
09:41:09 5 yesterday morning. He said Greg, tell them they're
09:41:11 6 welcome to come on over. We have nothing to hide. If
09:41:15 7 they don't want to accept that invitation, that's their
09:41:18 8 choice, but I don't want it to be portrayed as we're
09:41:21 9 trying to hide something or we're engaging in a
09:41:24 10 coverup, and that's been the story line from day one,
09:41:26 11 Your Honor.

09:41:27 12 THE COURT: I appreciate that.

09:41:29 13 MS. PEEBLES: I may be heard on those matters
09:41:31 14 addressed by Mr. Oakes.

09:41:32 15 THE COURT: Sure.

09:41:32 16 MS. PEEBLES: First and foremost, I think it's
09:41:35 17 important to point out had this court denied our motion
09:41:39 18 for a hearing, we never would have seen the almost
09:41:43 19 three-thousand pages of discovery, the eighteen hours
09:41:47 20 of audio, the eight hours of video which had been
09:41:51 21 created before they filed their response, we never
09:41:55 22 would have seen that information, so to sit here and
09:41:59 23 tell this court that they are trying to fulfill their
09:42:02 24 ethical obligations is nothing -- is the most
09:42:05 25 disingenuous argument I've heard. It's ridiculous. My

09:42:10 1 investigator was called at almost quarter after five on
09:42:15 2 Friday, or quarter after four, and I'm asked whether he
09:42:18 3 can drive to the Great Northern Mall to meet their
09:42:22 4 investigator to pick up a box. I thought it was going
09:42:24 5 to be -- I had no idea. I had been pulling teeth. I
09:42:27 6 was trying to get the search report. I had made
09:42:31 7 numerous requests for the search report that they
09:42:34 8 conducted in August of 2014, and he said I would get
09:42:37 9 it. I thought that's what I was going to be getting on
09:42:40 10 Friday which I would have had no problem with. When he
09:42:42 11 came back with that box my jaw dropped. My jaw
09:42:47 12 dropped. I -- I was dumped on on Friday, so to sit
09:42:51 13 here -- it was completely calculated for me to want to
09:42:55 14 request an adjournment of this case, there is no
09:42:58 15 question in my mind, and thank God I had the resources
09:43:01 16 and the great people in my office, and those slides are
09:43:05 17 for me when I'm standing up there and I'm trying to see
09:43:08 18 when I'm asking questions to the witness, so despite
09:43:10 19 what Mr. Oakes says, that I'm attempting to poison the
09:43:14 20 media with the exhibits that I'm introducing which by
09:43:16 21 the way would be public record any way, is ridiculous.

09:43:20 22 As far as the integrity of this investigation,
09:43:22 23 I sat in that room yesterday with Mr. Oakes and he told
09:43:26 24 me that he questioned the integrity of the Sheriff's
09:43:30 25 Department, that he had questions with regard to the

09:43:32 1 lead investigator assigned to this case, that is
09:43:34 2 Investigator Pietroski. He sat there and told me that
09:43:38 3 he was questioning his integrity with regard to this
09:43:41 4 investigation. He invited us after I said I wouldn't
09:43:46 5 adjourn, I wouldn't want to adjourn it, it would take
09:43:48 6 forever for the Attorney General's Office to come in
09:43:51 7 and look at these documents, and do I want to see
09:43:54 8 what's in there? Absolutely. The reason he did it is
09:43:57 9 because he said there was sloppy paperwork. There were
09:43:59 10 lead numbers that weren't in the right order, there
09:44:02 11 were documents that didn't have leads attached to it,
09:44:04 12 he said it was miss-numbered, and that's my problem?
09:44:08 13 Now it's my responsibility to pull out my Brady
09:44:11 14 material? I would have happily done that a year ago
09:44:14 15 but I wasn't invited in the office. Now at the
09:44:18 16 eleventh hour I'm supposed to dig through these boxes,
09:44:20 17 it's my responsibility. It's ridiculous.

09:44:25 18 As far as the question with regard to moving
09:44:32 19 forward with this, again, Your Honor, I say we move
09:44:37 20 forward, and if it rains Brady some other time down the
09:44:41 21 road and things go the way differently than I want them
09:44:44 22 to, then perhaps we'll address it again, but absolutely
09:44:47 23 want to proceed further on this, and I'm offended by
09:44:51 24 these comments and his argument concerning what
09:44:53 25 transpired over the weekend. I'm absolutely

09:44:56 1 flabbergasted, and it continues, and I feel like the
09:44:58 2 attempts to manipulate me into agreements because he
09:45:02 3 tells me he's going to do the right thing. He won't do
09:45:05 4 anything unless I provide him with DNA evidence, and
09:45:07 5 that's not going to happen because -- because what
09:45:11 6 we're learning through these witnesses is that her
09:45:13 7 remains have been shipped to Canada, so I will never be
09:45:17 8 able to walk in this courtroom and provide Mr. Oakes
09:45:19 9 with DNA, so for him to sit here again and suggest that
09:45:23 10 he wants to do the right thing, I find that hard to
09:45:25 11 believe.

09:45:28 12 MR. OAKES: Thirty seconds, Your Honor. Your
09:45:31 13 Honor, to the point of had they not requested a
09:45:35 14 hearing, this never would have been disclosed, the
09:45:37 15 People consented to a hearing. Upon the filing of
09:45:41 16 motions, the People said we see the necessity of a
09:45:44 17 hearing, we'd agree to it. We never asked the Court to
09:45:47 18 decide simply solely upon the papers. Once they were
09:45:52 19 filed, we'd indicated that some of the issues upon
09:45:55 20 filing, that it could be decided upon the papers, but
09:45:58 21 if -- later discussions with Mr. Lyndaker, counsel, we
09:46:02 22 acknowledged that there needed to be a hearing, and we
09:46:05 23 readily agreed and we haven't fought this hearing. We
09:46:08 24 welcome it. Thank you.

09:46:10 25 THE COURT: Just a second, folks.

1 (Whereupon, there was a pause in the
09:46:20 2 proceeding).

09:46:20 3 THE COURT: Ms. Peebles, you also want to be
09:46:23 4 heard with regard to some other issues we discussed at
09:46:26 5 the bench?

09:46:26 6 MS. PEEBLES: Yes, Your Honor. There are some
09:46:28 7 evidentiary issues that we discussed, and I want to
09:46:31 8 make a record of that. It's our position we have some
09:46:33 9 witnesses that we intend to call that would actually
09:46:35 10 provide statements that would be against penal interest
09:46:39 11 with regard to Steen, Breckenridge, Bohrer and Wescott,
09:46:43 12 and we believe that the proof would be such that the
09:46:46 13 witnesses we would call would suggest that they heard
09:46:49 14 confessions or incriminating statements against penal
09:46:52 15 interest, and we believe they would be admissible, and
09:46:56 16 there is an exception to the hearsay rule, and the
09:46:58 17 rules are relaxed, and we do believe that if Mr.
09:47:02 18 Thibodeau is afforded a new trial, that that evidence
09:47:05 19 would in fact be admissible under that exception of the
09:47:08 20 hearsay rule, and we believe that we should be able to
09:47:12 21 call our witnesses to testify in that regard. And in
09:47:17 22 addition, Your Honor, while -- withdraw that. I think
09:47:20 23 we addressed it in the other issue but on that point.

09:47:23 24 THE COURT: Okay, Mr. Oakes?

09:47:24 25 MR. OAKES: Thank you, Your Honor.

09:47:27 1 THE COURT: I don't think your mike's working.

09:47:39 2 Mr. Millich will fix your mike.

3 (Whereupon, there was a pause in the
09:47:46 4 proceeding).

09:47:46 5 THE COURT: All right, Mr. Oakes.

09:47:47 6 MR. OAKES: Thank you. Your Honor, again,
09:47:49 7 there is proposed testimony with various witnesses by
09:47:54 8 the defense which the People believe is hearsay and
09:47:56 9 doesn't fall under an exception to the hearsay rule;
09:47:59 10 most notably, a declaration against penal interest.
09:48:03 11 The People have consented -- the People would object to
09:48:06 12 that hearsay being admitted at a trial because we
09:48:09 13 believe it's not admissible. However, for the purpose
09:48:12 14 of this hearing, we would consent to that being
09:48:15 15 admitted for the Court's review so the Court can make a
09:48:17 16 proper determination whether it's admissible at trial,
09:48:21 17 much like a Huntley hearing where the Court would hear
09:48:23 18 it, determine whether it should be accepted at trial,
09:48:26 19 and again, I would just note on the record, Your Honor,
09:48:29 20 the proposed stipulations that I'd submitted to the
09:48:31 21 Court, provided to counsel, at the very top of that it
09:48:34 22 said the People are willing to stipulate to the
09:48:36 23 admission.

09:48:36 24 THE COURT: Let's not get to that -- let's not
09:48:39 25 get to that issue yet.

09:48:40 1 MR. OAKES: Okay.

09:48:41 2 THE COURT: Okay. So with regard to the
09:48:43 3 defendant's position that it is hearsay, but it fits
09:48:45 4 within the hearsay exception being declaration against
09:48:49 5 penal interest, that's your position, correct?

09:48:50 6 MS. PEEBLES: It is, Judge, and we think the
09:48:52 7 caselaw supports that.

09:48:53 8 THE COURT: I understand that. Your position
09:48:54 9 is you don't think it fits within the hearsay
09:48:58 10 exception. Do you have a standing objection to this
09:49:01 11 testimony, but you're going to let it come in for the
09:49:04 12 Court's review to see if it does fit within the hearsay
09:49:07 13 exception?

09:49:07 14 MR. OAKES: Yes, Your Honor.

09:49:08 15 THE COURT: So Mr. Oakes does not have to
09:49:10 16 stand up every time one of these people is testifying
09:49:12 17 to what is apparently hearsay to object. Is that your
09:49:14 18 understanding as well, Ms. Peebles?

09:49:17 19 MS. PEEBLES: It is.

09:49:17 20 THE COURT: That's fine. That's that issue,
09:49:18 21 okay, and you now have an issue regarding a
09:49:22 22 stipulation?

09:49:22 23 MR. OAKES: Your Honor, in relating to the
09:49:25 24 idea of hearsay and hearsay coming in, with that
09:49:29 25 stipulation, the People had agreed for those various

09:49:32 1 documents, again, that they would be submitted not for
09:49:35 2 trial, not for evidence that accepted here then would
09:49:39 3 be able to go on to be accepted at trial, but again, in
09:49:42 4 that proposed stipulation I wrote, "The People are
09:49:44 5 willing to stipulate to the admission of the following
09:49:45 6 documents/items as evidence for the purpose of the CPL
09:49:49 7 440.10 hearing on this matter. To be clear, the People
09:49:54 8 do not believe that all such items could properly be
09:49:57 9 received as evidence at trial; however, the documents
09:50:00 10 should be admitted at this time so that the Court may
09:50:02 11 properly decide the pending motion." I think that's
09:50:05 12 consistent with the statement this morning.

09:50:08 13 THE COURT: Okay.

09:50:10 14 MR. OAKES: Along that lines, we had a
09:50:12 15 discussion in chambers regarding Ms. Priest and whether
09:50:16 16 she would testify, and Ms. Peebles indicated that Tonya
09:50:20 17 Priest will not be testifying, or at least at this
09:50:22 18 point they don't intend to call her as a witness
09:50:24 19 because her statement was introduced in evidence. I
09:50:26 20 couldn't recall that statement being introduced in
09:50:28 21 evidence and asked Ms. Peebles and she said well, it's
09:50:32 22 part of Exhibit 35. As the Court may recall, Exhibit
09:50:38 23 35 is the June six, 2013 letter and the packet that I
09:50:41 24 had sent to Ms. Bianco. The People agreed to that
09:50:45 25 being admitted, Your Honor, for the purpose of showing

09:50:48 1 what was disclosed to counsel at the time because that
09:50:50 2 was the relevant issue, to show what was disclosed to
09:50:53 3 counsel, not that each of those items accepted therein
09:50:57 4 were statements that could be accepted for the truth of
09:51:01 5 the matters asserted therein. Again, though it's
09:51:04 6 attached to Exhibit 35, it wasn't meant for the Court
09:51:06 7 to receive that as her testimony or in lieu of Tonya
09:51:12 8 Priest's testimony, it was being offered to show that
09:51:14 9 that document was provided to the defense, the
09:51:17 10 defendant and Judge Hafner, when it was made a public
09:51:21 11 record when it was filed with the Court, when it was
09:51:23 12 previously disclosed to the defense counsel and
09:51:25 13 defendant so they would have all Brady material at that
09:51:29 14 time, and I would ask the Court to consider Exhibit 35
09:51:32 15 for that limited purpose of what was disclosed to the
09:51:37 16 defense, not for the truth of the matter of every
09:51:40 17 statement made therein.

09:51:42 18 THE COURT: Ms. Peebles?

09:51:43 19 MS. PEEBLES: Judge, first of all, before I
09:51:45 20 address that argument, I just want to point out because
09:51:47 21 I think often I feel like I'm losing my mind with the
09:51:50 22 statements made by Mr. Oakes. His conclusion to his
09:51:54 23 motion that was filed on October tenth, 2014, "For all
09:51:57 24 the foregoing reasons, this Court should deny
09:52:00 25 defendant's motion to vacate his judgment on the

09:52:04 1 grounds of newly discovered evidence and pursuant to
09:52:08 2 CPL 440.10(1)(g) without the necessity of a hearing
09:52:09 3 based upon the law and the papers submitted by both
09:52:12 4 parties." I have failed to see where he agreed to this
09:52:15 5 hearing, so I don't know where he's coming up with
09:52:18 6 that.

09:52:18 7 Now as far as the issue that he just
09:52:21 8 mentioned, he -- Mr. Oakes changed my exhibit and
09:52:26 9 introduced Exhibit 35 which contains Tonya Priest's
09:52:30 10 statement, Tonya Priest's sworn statement, which is
09:52:32 11 nothing more than her statement regarding out of court
09:52:36 12 hearsay statements against penal interest regarding Mr.
09:52:40 13 Steen, is nothing different than what the Court's going
09:52:41 14 to hear from a bunch of other witnesses that we intend
09:52:44 15 to call, so again, Your Honor, the point is if she were
09:52:48 16 called to testify, that's what she would say, and they
09:52:50 17 could cross-examine her, but the bottom line is they
09:52:52 18 could call her themselves, they could call them if
09:52:55 19 they -- they could call Tonya Priest if they choose to.

09:52:58 20 THE COURT: How do Tonya Priest's statements
09:53:00 21 act as hearsay exception under declaration against
09:53:04 22 penal interest of Tonya Priest?

09:53:06 23 MS. PEEBLES: Your Honor, the statement was
09:53:08 24 stipulated to by the People. They actually moved it
09:53:11 25 into evidence and stipulated to it. It's a sworn

09:53:14 1 statement, and that's for the Court's consideration.
09:53:18 2 So I'm saying that it's -- it doesn't have to fit an
09:53:22 3 exception for the Court's purposes obviously because
09:53:24 4 they agreed to introduce it.

09:53:25 5 THE COURT: What about Mr. Oakes's argument
09:53:27 6 that the purpose of the introduction is simply to show
09:53:30 7 it was disclosed to the People, I'm sorry, I'm sorry,
09:53:32 8 to the defendant, I apologize.

09:53:34 9 MS. PEEBLES: Where does it -- where did that
09:53:36 10 agreement come to because if he had an agreement with
09:53:39 11 somebody that that was what was suggested, it wasn't my
09:53:41 12 understanding. It's -- everything's in there including
09:53:44 13 the audio recording, the interview with Pietroski and
09:53:48 14 Wescott, everything is in there, so for him to now
09:53:50 15 suggest that I misunderstood the stipulation, I'm
09:53:54 16 perplexed again. I was only going to introduce part of
09:53:58 17 the exhibits and he -- he wanted me to introduce the
09:54:01 18 entire packet which I did, so it is simply for the
09:54:04 19 Court to review, and I'm not suggesting that we would
09:54:08 20 do it in that manner if Mr. Thibodeau was granted a new
09:54:11 21 trial, but he stipulated to it.

09:54:15 22 THE COURT: The Court's going to reserve on
09:54:16 23 that. Anything else, Ms. Peebles? Or Mr. Oakes?

09:54:22 24 MR. OAKES: Your Honor --

09:54:23 25 THE COURT: Your mike's on so the conversation

09:54:25 1 back and forth.

09:54:26 2 MS. PEEBLES: I guess just to point out, Tonya
09:54:29 3 Priest has talked repeatedly with the prosecution, and
09:54:33 4 she's been interviewed. Her conversation is also there
09:54:36 5 that Mr. Oakes interviewed her on, on the audio, so
09:54:40 6 that's -- that's in with the packet of information, so,
09:54:43 7 you know, she's been available to them and they've
09:54:46 8 talked to her on multiple occasions.

09:54:47 9 THE COURT: Mr. Oakes?

09:54:48 10 MR. OAKES: Your Honor, regarding the
09:54:52 11 conclusions of law at the end of my motion, again, I
09:54:54 12 had indicated, I said several moments ago, that in our
09:54:59 13 papers we said it can be decided as a matter of law
09:55:03 14 upon the papers. Subsequent to that we talked to
09:55:04 15 defense counsel, Mr. Lyndaker, and agreed to a hearing,
09:55:08 16 and that's actually accurate, but regarding Ms. Priest,
09:55:11 17 again, the defense on Exhibit 35 offered just my
09:55:15 18 letter, the cover letter. I was going to put that in
09:55:19 19 through Ms. Bianco. Again, the purpose of Ms. Bianco's
09:55:22 20 testimony was to show what she had received and what
09:55:24 21 the basis for her -- as a foundation for her subsequent
09:55:28 22 actions. What I'd suggested is rather than just put
09:55:30 23 the cover letter, so the Court has all the information,
09:55:33 24 let's put in exactly the duplicative equivalent or
09:55:37 25 duplicative copy of exactly what she received.

09:55:40 1 Again, at no point -- I certainly didn't
09:55:45 2 intend to let all that hearsay come in and be
09:55:47 3 considered for the truth of the matters asserted, and
09:55:50 4 as the Court recognized, Tonya Priest's statement is
09:55:54 5 hearsay, but Your Honor, again, Ms. Peebles indicated
09:55:58 6 that we can call Tonya Priest as a witness. I would
09:56:02 7 not call Tonya Priest as a witness, Your Honor, because
09:56:05 8 I don't believe she's credible, and if I called her as
09:56:08 9 my own witness, I could not impeach her with her prior
09:56:11 10 inconsistent statements.

09:56:13 11 If we're making a full record, this morning I
09:56:15 12 provided to the Court and counsel along with certain
09:56:19 13 lead sheets the Sheriff's Department developed during
09:56:22 14 the last week, leads fifteen fifty-nine, fifteen sixty,
09:56:26 15 fifteen sixty-one and fifteen sixty-two, and those are
09:56:33 16 basically developed since January eighth when those
09:56:36 17 leads came in and they have been working those leads.

09:56:39 18 Additionally last night, the New York State
09:56:44 19 Police, or I guess Andy -- well, an investigator for
09:56:49 20 the New York State Police contacted the Sheriff's
09:56:52 21 Department indicating that Tonya Priest had called
09:56:54 22 them, wanted to make a statement to the New York State
09:56:58 23 Police. Because the Sheriff's Department is the lead
09:56:59 24 investigative agency, by protocol the State Police
09:57:03 25 reached out to them. I was approached, we spoke with

09:57:06 1 Lieutenant Rostal (ph), I said I understand that Ms.
09:57:10 2 Priest does not trust the Sheriff's Department, that
09:57:12 3 she does not feel comfortable speaking with them, and I
09:57:14 4 said let's forget protocol. If she wants to talk to
09:57:18 5 the State Police, if that's who she sought out, let's
09:57:21 6 let her speak to them. I personally called the senior
09:57:24 7 investigator in Fulton barracks and asked him as a
09:57:28 8 courtesy would you please interview her last night, let
09:57:31 9 her give her statement, whatever it is she has to say.

09:57:34 10 Overnight we were faxed or this morning a copy
09:57:37 11 of Ms. Priest's statement in which for the first time
09:57:41 12 last night she disclosed that in addition to hearing
09:57:45 13 statements from James Thumper Steen, in her presence,
09:57:48 14 and in the presence of Vickie West, now apparently a
09:57:51 15 Charles Carr, the victim of Mr. Steen's homicide, he
09:57:56 16 was also present, and two years of statements to law
09:57:59 17 enforcement, the media, the Public Defender's Office,
09:58:02 18 she's never said Mr. Carr was present, but now last
09:58:04 19 night there he is here in this admission. Of course
09:58:08 20 Mr. Carr is deceased and can't refute that allegation,
09:58:12 21 but in her statement she gave to State Police, she also
09:58:15 22 detailed new incriminating statements she heard from
09:58:18 23 Michael Bohrer implicating him in the abduction,
09:58:21 24 disposal and murder of Heidi Allen. Again, those
09:58:25 25 statements attributed to Mr. Bohrer last night have

09:58:27 1 never been mentioned in telephone calls to me,
09:58:30 2 interviews with Sheriff's Department, interviews with
09:58:34 3 the Public Defender's Office I would presume or also it
09:58:37 4 would have been in their motion. She also last night
09:58:43 5 for the first time that I'm aware of has indicated that
09:58:47 6 Roger Breckenridge made incriminating statements in her
09:58:51 7 presence about Heidi Allen, implicating himself in her
09:58:55 8 abduction and murder, and again, despite repeated
09:58:57 9 interviews with myself, Sheriff's Department, law
09:59:00 10 enforcement, again, that was disclosed for the first
09:59:03 11 time.

09:59:04 12 The question's come up why I have questioned
09:59:07 13 Ms. Priest's credibility throughout this? Your Honor,
09:59:11 14 it's this type of behavior right here. Every time a
09:59:14 15 story is told is added to, is added to, there's some
09:59:18 16 new detail. Now instead of just being the
09:59:20 17 implicated -- the incriminating statements, admissions
09:59:23 18 of James Steen, now she gives a statement that she's
09:59:26 19 heard all three people, Roger Breckenridge, Michael
09:59:29 20 Bohrer, James Steen all make admissions admitting to
09:59:33 21 this crime. I wish she had said so two years ago. It
09:59:37 22 would have been a heck of a lot easier in this
09:59:39 23 investigation.

09:59:40 24 Again, in her e-mails, when she came up to
09:59:44 25 meet with me and Investigator Pietroski, within an hour

09:59:48 1 or so of speaking with us about Heidi Allen, she
09:59:51 2 immediately turned her attention to the death of her
09:59:53 3 husband, Wayne Priest, wanting the sheriffs to reopen
09:59:56 4 that investigation, and it became clear in that
09:59:59 5 conversation that was her purpose in being here. It --
10:00:02 6 Heidi Allen was a ruse to get our attention so we would
10:00:07 7 focus on Wayne Priest. We have e-mails and letters
10:00:10 8 that she has sent to various law enforcement officers,
10:00:13 9 Your Honor, indicating there's a vast conspiracy, that
10:00:15 10 the people who killed Heidi Allen also killed her
10:00:19 11 husband, Wayne Priest, and now recently she contacted
10:00:23 12 Investigator Montileone (ph) of the Albany County
10:00:31 13 Sheriff's Department and now this conspiracy extends to
10:00:34 14 others. Now it's not just Heidi Allen and her husband,
10:00:37 15 but there's two other people that these people have
10:00:39 16 executed here in Oswego County, one of which was an
10:00:44 17 auto accident, and again, her husband died in a
10:00:47 18 motorcycle accident.

10:00:51 19 I would want to resent Ms. Priest if I didn't
10:00:55 20 feel so sorry for her, Your Honor. That is -- these
10:01:01 21 changing stories, quite frankly, is the reason we
10:01:04 22 didn't believe she was reliable, why we couldn't trust
10:01:07 23 her account of what Mr. Steen told her. It's the
10:01:10 24 reason we're not calling her as a witness, and I bet
10:01:12 25 and I would -- well, I think, Your Honor, those

10:01:17 1 changing stories may very well be the fact why the
10:01:20 2 defense is no longer willing to call her as a witness
10:01:22 3 either to subject her to cross-examination so that this
10:01:25 4 Court can hear about those inconsistent statements, but
10:01:30 5 again, certainly her hearsay statements shouldn't be
10:01:34 6 accepted through the back door when it was offered, and
10:01:38 7 at least in my mind offered for the purpose of showing
10:01:40 8 why Ms. Bianco took the steps that she did, not for the
10:01:44 9 truth of the matters asserted therein.

10:01:45 10 THE COURT: Ms. Peebles, do you want to
10:01:47 11 address that?

10:01:47 12 MS. PEEBLES: Yes. First and foremost, Ms.
10:01:51 13 Priest reached out to law enforcement long before
10:01:55 14 February of 2013. She was going through NCMEC, and
10:01:58 15 she had made multiple efforts in trying to convey
10:02:01 16 information anonymously. We have those e-mails, just
10:02:04 17 regarding Heidi Allen, not Wayne Priest, and is it
10:02:08 18 unusual for a wife to be obsessed with her husband's
10:02:14 19 death? How do you hold that against a woman because
10:02:17 20 she's upset about her husband's death. If she thinks
10:02:21 21 there is a conspiracy regarding the death of her
10:02:24 22 husband and it prompted her to come forward because she
10:02:27 23 had information that she felt she should have disclosed
10:02:29 24 long ago, how does that undermine her credibility and
10:02:33 25 her truthfulness? Is it because -- and the suggestion

10:02:36 1 that he knows my conversations with Ms. Priest? He
10:02:41 2 doesn't. I've had multiple conversations with Ms.
10:02:44 3 Priest. This isn't the first time I've heard her talk
10:02:47 4 about Roger Breckenridge or Michael Bohrer, and
10:02:49 5 frankly, it has nothing to do with avoiding
10:02:53 6 cross-examination of Ms. Priest. Has nothing to do
10:02:56 7 with it. The prosecution agreed to allow me to put in
10:03:00 8 her sworn statement, and to subject her to additional
10:03:04 9 harassment for doing what was the right thing for her
10:03:06 10 and to come forward, I'm not going to do it if I have
10:03:09 11 her sworn statement in evidence, there's no reason to,
10:03:12 12 and I have other witnesses that are going to come in
10:03:14 13 and testify about the same thing, so it's not -- it's
10:03:17 14 not necessary, and the fact that they want to
10:03:19 15 cross-examine her is not my problem. They can subpoena
10:03:23 16 her and they can call her as their witness.

10:03:26 17 And again, Judge, the idea that they consent,
10:03:30 18 I'm looking for it because I've never seen it. I've
10:03:32 19 never heard it, I've never seen it. As far as I knew,
10:03:34 20 the Court ruled that we were granted a hearing and a
10:03:38 21 date was set. That was it. I never had a conversation
10:03:40 22 with Mr. Oakes ever that he consented to this, so I
10:03:45 23 don't know where he's coming up with that, and again,
10:03:47 24 it continues to concern me with regards to his
10:03:50 25 representations because they're simply not true and

10:03:54 1 I -- I always want to give people the benefit of the
10:03:57 2 doubt, but it has gotten to the point now where I'm
10:04:00 3 boiling over, and I'm not going to sit back and -- and
10:04:03 4 continue to not say anything which is why we're having
10:04:06 5 this discussion, so with that, Your Honor, with regard
10:04:11 6 to that issue, I -- I think that the Court has her
10:04:14 7 statement, it's in evidence, and there's no point in
10:04:17 8 calling her.

10:04:18 9 THE COURT: The Court will reserve on that
10:04:20 10 decision. We'll have a decision by the end of the day
10:04:22 11 with regard to that matter. Are we ready to move
10:04:25 12 forward?

10:04:27 13 MS. BIANCO: Yes, we are.

10:04:28 14 MR. OAKES: Yes, Your Honor.

10:04:28 15 THE COURT: When we were last here, Mr.
10:04:29 16 Breckenridge was on the stand. Is that agreed?

10:04:33 17 MS. PEEBLES: Yes.

10:04:34 18 THE COURT: Bring Mr. Breckenridge in please.

10:05:01 19 (Whereupon, the witness enters the courtroom).

10:05:07 20 THE CLERK: I'm going to swear you in again.

10:05:11 21 R O G E R B R E C K E N R I D G E, Called as a witness,
22 having been duly sworn, was examined and testified as
10:05:18 23 follows:

10:05:18 24 THE CLERK: Please state your name for the
10:05:20 25 record.

10:05:20 1 THE WITNESS: Roger Breckenridge.

10:05:22 2 THE CLERK: Spell your last name.

10:05:23 3 THE WITNESS: B-R-E-C-K-E-N-R-I-D-G-E.

10:05:27 4 THE CLERK: Have a seat please.

10:05:28 5 THE COURT: Is the camera on or off?

10:05:34 6 UNIDENTIFIED PERSON: It's off right now.

10:05:36 7 THE COURT: Turn it off.

10:05:37 8 UNIDENTIFIED PERSON: Your Honor, he

10:05:38 9 consented.

10:05:38 10 THE COURT: Mr. Breckenridge, I'm going to ask

10:05:39 11 you again today if you consent to having your testimony

10:05:42 12 audio and video taped.

10:05:44 13 THE WITNESS: It don't matter.

10:05:45 14 THE COURT: I need a yes or a no.

10:05:46 15 THE WITNESS: Yeah, go ahead.

10:05:47 16 THE COURT: Turn the camera back on. Mr.

10:05:49 17 Breckenridge, as I said to you yesterday, you are a

10:05:51 18 very soft spoken person. You need to speak loudly

10:05:53 19 enough today so the back wall can hear you talk. Do

10:05:56 20 you understand that?

10:05:57 21 THE WITNESS: Yes.

10:05:57 22 THE COURT: And all responses have to be

10:05:59 23 verbal. You understand that?

10:06:00 24 THE WITNESS: Yep.

10:06:01 25 THE COURT: Okay. Speak loudly.

10:06:04 1 THE WITNESS: Okay.

10:06:05 2 THE COURT: Yell if you have to, okay?

10:06:07 3 THE WITNESS: All right.

10:06:07 4 THE COURT: Okay, Ms. Bianco.

10:06:09 5 MR. OAKES: Your Honor, I believe my mike may
10:06:11 6 be on. Can I have it turned off in case I --

10:06:14 7 THE COURT: Yeah.

10:06:15 8 MR. OAKES: Thank you.

10:06:27 9 REDIRECT EXAMINATION

10:06:28 10 BY MS. BIANCO:

10:06:28 11 Q. Mr. Breckenridge, yesterday do you remember stating
10:06:32 12 that you had never met Michael Bohrer at the Medspar
10:06:36 13 Computer Store?

10:06:37 14 A. Yes, ma'am.

10:06:38 15 Q. And is that your sworn testimony here today?

10:06:41 16 A. Yep.

10:06:42 17 Q. Do you remember giving a statement to the Sheriff's
10:06:46 18 Department on March nineteenth, 2013 under oath?

10:06:52 19 A. What's that now?

10:06:54 20 Q. Do you remember giving a sworn statement to the
10:06:58 21 Sheriff's Department on March nineteenth, 2013 under oath?

10:07:04 22 A. I plead the Fifth Amendment on that.

10:07:07 23 Q. You're pleading the Fifth Amendment on whether you
10:07:09 24 gave a statement?

10:07:10 25 A. Um hum.

10:07:10 1 MS. BIANCO: Permission to treat the witness as
10:07:12 2 hostile, Your Honor.

10:07:15 3 THE COURT: Mr. Schwartz, do you need time to
10:07:20 4 speak to your client?

10:07:20 5 MR. SCHWARZ: Yes, Your Honor.

10:07:22 6 THE COURT: Brief five minutes.

10:10:29 7 (Whereupon, there was a recess.)

10:11:43 8 THE COURT: Before we go any further, this
10:11:44 9 morning the diaries were turned over to the Court for
10:11:47 10 its in camera review. The Court's not done that yet,
10:11:51 11 the Court anticipates either doing it later this
10:11:54 12 afternoon or tomorrow morning, so Ms. Peebles and Ms.
10:11:56 13 Bianco, you know that the diaries are now in the
10:11:58 14 possession of the Court. They were delivered this
10:12:00 15 morning for in camera review by the People.

10:12:03 16 MR. OAKES: Your Honor, and if I may clarify,
10:12:04 17 when you say diaries, there is a 1993 diary, I forget
10:12:08 18 if that's green or red, and a 1994 diary which is the
10:12:12 19 opposite color. It's one green, one red.

10:12:15 20 THE COURT: Okay.

10:12:15 21 MR. OAKES: Just for the record.

10:12:16 22 THE COURT: Okay.

10:12:17 23 MR. OAKES: Thank you.

10:12:19 24 THE COURT: Okay, Mr. Breckenridge, you're
10:12:21 25 back on the stand, you're under oath. Ms. Bianco, go

10:12:24 1 ahead.

10:12:25 2 MS. BIANCO: He had just pled the Fifth,

10:12:27 3 Judge, and --

10:12:28 4 THE COURT: He tried to invoke the Fifth.

10:12:30 5 Didn't do it properly. Do you want to ask the question

10:12:33 6 again regarding the sworn statement?

10:12:34 7 Q. Did you give a sworn statement to Investigator

10:12:41 8 Pietroski on March nineteenth, 2013? Did you give that

10:12:47 9 statement?

10:12:47 10 A. Yes, ma'am.

10:12:47 11 Q. And in that statement, did you state, "The only time

10:12:56 12 I ever met Michael Bohrer was four to five years ago when

10:13:01 13 he fixed Jennifer Wescott's computer. I was dating

10:13:05 14 Jennifer Wescott at the time." Did you say that?

10:13:08 15 A. Yes, ma'am.

10:13:10 16 MR. OAKES: Objection, Your Honor. Ms.

10:13:11 17 Bianco's reading -- never mind, Your Honor. It's

10:13:26 18 just -- never mind.

10:13:27 19 THE COURT: Okay.

10:13:30 20 Q. Did you state that under oath to the Sheriff's

10:13:35 21 Department on March nineteenth, 2013?

10:13:43 22 A. Yeah, yeah, ma'am. I -- I never met -- well,

10:13:49 23 Jennifer Wescott went over there, not me. I didn't have a

10:13:52 24 driver's license.

10:13:53 25 Q. So the -- what you stated, "The only time I ever met

10:13:58 1 Michael Bohrer was four to five years ago when he fixed
10:14:02 2 Jennifer Wescott's computer," you stated that you met
10:14:07 3 Michael Bohrer in this sworn statement, correct?

10:14:11 4 A. Yeah.

10:14:12 5 MR. OAKES: Objection, Your Honor, asked and
10:14:14 6 answered.

10:14:14 7 THE COURT: Sustained.

10:14:16 8 MS. BIANCO: I offer Defendant's Exhibit 49
10:14:19 9 into evidence.

10:14:22 10 THE COURT: Is it marked?

10:14:24 11 MS. BIANCO: It is.

10:14:25 12 THE COURT: Any objection?

10:14:26 13 MR. OAKES: The People do object, Your Honor.
10:14:29 14 She's -- she's asked him a question, she's trying to
10:14:32 15 impeach him. To put it in evidence, it appears the
10:14:35 16 defense is trying to accept every statement admitted
10:14:40 17 for the truth of the matters asserted therein, so we're
10:14:42 18 objecting to it being accepted.

10:14:43 19 THE COURT: But under the statute, she has a
10:14:45 20 right to introduce inconsistent sworn statements of her
10:14:48 21 own witness. You would agree to that, CPL 30.35,
10:14:52 22 60.35.

10:14:54 23 MR. OAKES: Does she have the right to -- Your
10:15:00 24 Honor, I believe she has the right --

10:15:01 25 THE COURT: For impeachment purposes only.

10:15:04 1 MR. OAKES: -- to cross him on it and ask him
10:15:07 2 about it, but I don't believe that's to accept the
10:15:10 3 document in evidence.

10:15:10 4 THE COURT: I'm going to receive it over the
10:15:14 5 objection of the People. It's for impeachment purposes
10:15:17 6 only. It's been marked?

10:15:18 7 MS. BIANCO: It has, forty-nine.

10:15:19 8 THE COURT: Forty-nine is moved in over the
10:15:21 9 objection of the People.

10 10 (Defendant's Exhibit No. 49 was received in
10:15:23 11 evidence).

10:15:23 12 Q. And you would agree that the sworn testimony you
10:15:27 13 gave on March nineteen is different than the sworn
10:15:30 14 testimony you gave in this very courtroom yesterday?

10:15:35 15 A. No, ma'am.

10:15:36 16 Q. How doesn't it -- explain to me how it -- how it
10:15:40 17 doesn't disagree. You said you met Michael Bohrer -- never
10:15:44 18 met him in the Medspar Computer Store. You said that.

10:15:48 19 A. Yeah. I said that. I never met him in that store.

10:15:51 20 Q. And in your statement, you said the only time you
10:15:53 21 met him was when Jennifer was getting her computer fixed.

10:15:56 22 A. When Jennifer -- I never met him, Jennifer Wescott
10:16:00 23 went over there and got her computer fixed. I didn't have
10:16:03 24 a driver's license.

10:16:04 25 Q. So when you gave the statement that said the only

10:16:06 1 time you ever met Michael Bohrer, that was a lie.

10:16:09 2 MR. OAKES: Objection, Your Honor.

10:16:10 3 A. That was a lie.

10:16:11 4 THE COURT: Stop. What's your objection?

10:16:13 5 MR. OAKES: Objection. Asked and answered.

10:16:14 6 THE COURT: Asked and answered.

10:16:17 7 Argumentative. Move on.

10:16:20 8 Q. You also testified on cross-examination that if you
10:16:25 9 knew anything about Heidi Allen's death or disappearance
10:16:30 10 you would tell someone. Did you say that?

10:16:32 11 A. Yep. Yes, ma'am.

10:16:35 12 Q. Since March thirteenth, 2013, you've had a number of
10:16:41 13 visitors at -- in jail, is that correct?

10:16:46 14 A. Yeah.

10:16:47 15 Q. Who visited you?

10:16:49 16 A. When I been in prison?

10:16:52 17 Q. Yes.

10:16:52 18 A. My girlfriend Tammy and my sister Emmie.

10:16:57 19 Q. Did Jennifer Wescott ever visit you?

10:17:00 20 A. Nope. No, ma'am, never.

10:17:02 21 Q. Who did you speak to -- did you ever speak to
10:17:04 22 Jennifer on the phone?

10:17:05 23 A. No, ma'am.

10:17:07 24 Q. How about your former wife, your first wife, Tracey?

10:17:13 25 A. Yeah, a couple times.

10:17:15 1 Q. On the phone.

10:17:16 2 A. Yep.

10:17:16 3 Q. Did you have discussions about what you -- let me
10:17:24 4 strike that. Did you also speak to your sister Emmie on
10:17:26 5 the phone?

10:17:27 6 A. Yeah. I've talked to my sister Emmie all the time
10:17:29 7 on the phone.

10:17:30 8 THE COURT: Can I have Emmie's last name
10:17:33 9 please?

10:17:33 10 THE WITNESS: Emmie West.

10:17:34 11 Q. Did you have conversations with Emmie West about
10:17:38 12 what you were reading in the paper about Heidi Allen?

10:17:41 13 A. Yeah, yeah. I've -- I keep her in touch with it.

10:17:45 14 Q. Did you say to Emmie to tell Jennifer Wescott to
10:17:51 15 shut the fuck up about --

10:17:54 16 A. Yeah.

10:17:55 17 MR. OAKES: Objection.

10:17:56 18 A. Because she --

10:17:57 19 THE COURT: No, Mr. Breckenridge, be quiet.

10:18:00 20 MR. OAKES: Objection, Your Honor.

10:18:01 21 THE COURT: Based on?

10:18:02 22 MR. OAKES: She's impeaching him on an out of
10:18:08 23 court statement, Your Honor.

10:18:08 24 THE COURT: Now I know you're going to

10:18:10 25 disagree with me but you're impeaching your own

10:18:13 1 witness.

10:18:13 2 MS. BIANCO: I -- I'm not impeaching him, I'm
10:18:15 3 asking him a question. He didn't deny ever saying
10:18:17 4 this. This is just a question.

10:18:18 5 THE COURT: Ms. Bianco, you're very close.
10:18:20 6 Answer the question.

10:18:22 7 Q. Did you say to Emmie, your sister, on the phone, to
10:18:27 8 tell Jennifer Wescott to shut the fuck up about Heidi
10:18:31 9 Allen?

10:18:31 10 A. Yes, ma'am, I did, because she don't know nothing
10:18:34 11 what's going on, that's why. The girl's crazy.

10:18:39 12 Q. During the time you were with Jennifer Wescott, had
10:18:49 13 you been arrested for any domestic violence incidents?

10:18:53 14 MR. OAKES: Objection, Your Honor.

10:18:55 15 THE COURT: Stop, stop. What's your
10:18:56 16 objection?

10:18:57 17 MR. OAKES: Your Honor, this one is beyond the
10:18:59 18 scope of cross-examination. You gave her some more
10:19:05 19 latitude regarding information that developed Monday
10:19:07 20 night that she recently learned and is trying to
10:19:10 21 incorporate, but this is information available to the
10:19:12 22 defense for some time, and it's certainly well beyond
10:19:13 23 the scope.

10:19:14 24 THE COURT: Ms. Bianco?

10:19:15 25 MS. BIANCO: This is regarding a pattern of

10:19:17 1 threats made to not only this witness, to other
10:19:19 2 witnesses to shut up.

10:19:20 3 THE COURT: But you didn't bring -- you didn't
10:19:22 4 raise it on direct.

10:19:24 5 MS. BIANCO: Well, Judge, I'm looking at some
10:19:26 6 of the other things. I didn't realize this was such a
10:19:28 7 pattern, and now I'm looking at the things and I'm --

10:19:31 8 THE COURT: So it's going to go beyond what's
10:19:35 9 on direct because you didn't look into it more
10:19:37 10 carefully to begin with?

10:19:38 11 MS. BIANCO: No. We got disclosure yesterday
10:19:40 12 about other people knowing about his --

10:19:41 13 THE COURT: What's the relevance?

10:19:42 14 MS. BIANCO: -- admissions. I'm sorry, Judge?

10:19:45 15 THE COURT: What's the relevance?

10:19:46 16 MS. BIANCO: That he's made admissions and
10:19:48 17 then he's told people to shut up about those admissions
10:19:51 18 and he's threatened them.

10:19:55 19 THE COURT: I'll allow it, limited.

10:19:59 20 Q. Were you arrested numerous times for domestic
10:20:03 21 violence?

10:20:04 22 THE COURT: Hold it. I don't mean to cut you
10:20:05 23 off, but I think you just mischaracterized what he said
10:20:10 24 to Jennifer Wescott. You are implying to the Court
10:20:13 25 that he made the threat against her to shut the fuck

10:20:16 1 up.

10:20:17 2 MS. BIANCO: Yes.

10:20:17 3 THE COURT: He never said it was a threat
10:20:19 4 regarding any knowledge about Heidi Allen. Don't
10:20:22 5 mischaracterize testimony, okay?

10:20:26 6 MS. BIANCO: Yes, Your Honor.

10:20:28 7 Q. When you told Emmie to tell Jennifer Wescott to shut
10:20:33 8 the fuck up, what was she supposed to shut the fuck up
10:20:37 9 about?

10:20:38 10 A. I plead the Fifth Amendment on that.

10:20:43 11 THE COURT: You're not invoking it properly
10:20:45 12 for one thing. Do you want more time to speak to your
10:20:50 13 client?

10:20:51 14 MR. SCHWARTZ: Yes, Your Honor.

10:20:53 15 THE COURT: Five minutes.

10:28:16 16 (Whereupon, there was a recess).

10:28:16 17 THE COURT: Okay, we're back on the record.
10:28:18 18 Mr. Breckenridge -- actually, Ms. Bianco, ask the
10:28:22 19 question again please.

10:28:23 20 MS. BIANCO: Could I have the question read
10:28:25 21 back?

10:28:25 22 THE COURT: Absolutely.

23 (Whereupon, the court reporter read back the
10:29:39 24 last question).

10:29:39 25 THE COURT: You agree that was the question?

10:29:41 1 MS. BIANCO: That was the question.

10:29:42 2 A. Because she didn't know what she was talking about.

10:29:44 3 Q. But what particularly were you asking her to shut up
10:29:47 4 about?

10:29:48 5 A. About the Heidi Allen because she don't know nothing
10:29:51 6 about it.

10:29:51 7 Q. What did you tell Emmie specifically to tell
10:29:56 8 Jennifer?

10:29:57 9 A. I told Jennifer --

10:29:59 10 MR. OAKES: Objection, Your Honor. Asked and
10:30:01 11 answered.

10:30:01 12 A. -- to shut the fuck up because --

10:30:02 13 THE COURT: Stop, stop. Sustained.

10:30:06 14 Q. You had told Jennifer Wescott in the past not to
10:30:14 15 bring this subject up, is that right?

10:30:17 16 A. Yeah because she don't --

10:30:20 17 MR. OAKES: Objection, Your Honor.

10:30:21 18 A. Why bring something up that --

10:30:23 19 THE COURT: Stop. I'm sorry, Mr.
10:30:24 20 Breckenridge.

10:30:25 21 MR. OAKES: I'm sorry. Objection. Leading,
10:30:27 22 Your Honor.

10:30:27 23 THE COURT: I'll allow it.

10:30:30 24 Q. You had told Jennifer Wescott not to bring this
10:30:34 25 subject up in the past, haven't you?

10:30:38 1 A. No, not in the past, just since I have been locked
10:30:42 2 up.

10:30:43 3 Q. When you were living with Jennifer Wescott, were you
10:30:49 4 in physical altercations with her to keep her quiet about
10:30:55 5 Heidi Allen and what she was saying?

10:30:57 6 A. No, ma'am.

10:30:58 7 Q. You were in physical altercations.

10:31:05 8 MR. OAKES: Objection as to relevance.

10:31:06 9 A. No, ma'am.

10:31:06 10 THE COURT: The second question is were you in
10:31:07 11 physical altercations with her?

10:31:09 12 MS. BIANCO: Yes.

10:31:09 13 THE COURT: So you're withdrawing the leading
10:31:11 14 aspect of the Heidi Allen question?

10:31:13 15 MS. BIANCO: Yes. Were you in physical -- had
10:31:14 16 physical confrontations with her.

10:31:16 17 THE COURT: What's the relevance?

10:31:17 18 MS. BIANCO: Well, this is regarding what I
10:31:19 19 anticipate Jennifer Wescott will say about why she was
10:31:24 20 beaten. I'm giving him an opportunity to respond.

10:31:29 21 THE COURT: I'm going to sustain the
10:31:30 22 objection.

10:31:31 23 THE WITNESS: She was never beaten.

10:31:32 24 THE COURT: I'm going to sustain the
10:31:34 25 objection.

10:31:34 1 THE WITNESS: Never beaten by me.

10:31:35 2 THE COURT: Be quiet, Mr. Breckenridge.

10:31:38 3 Q. Do you know a person -- strike that. Did you also
10:31:46 4 relay messages through your sister to tell Jessica Howard
10:31:54 5 to shut the fuck up?

10:31:56 6 MR. OAKES: Objection, leading.

10:31:57 7 THE COURT: Sustained.

10:31:59 8 Q. Did you relay any other messages to your sister
10:32:03 9 Emmie to tell other people for you?

10:32:06 10 A. No.

10:32:07 11 Q. Do you know a person named Cynthia Taylor?

10:32:14 12 A. No, ma'am.

10:32:15 13 Q. Do you know a person named James Abbott?

10:32:19 14 A. No, ma'am.

10:32:20 15 Q. You were married to a Tracey Breckenridge, correct?

10:32:26 16 A. Yep.

10:32:26 17 Q. Did you talk to Tracey Breckenridge about a drug
10:32:34 18 deal at the D&W?

10:32:38 19 MR. OAKES: Objection, Your Honor.

10:32:39 20 A. No, ma'am.

10:32:39 21 THE COURT: Stop. What's your objection?

10:32:41 22 MR. OAKES: Leading, foundation.

10:32:44 23 THE COURT: I'll allow it.

10:32:47 24 A. No, ma'am.

10:32:48 25 Q. Did you talk to Tracey Breckenridge about what

10:32:52 1 happened to Heidi Allen?

10:32:53 2 A. No, ma'am.

10:32:54 3 Q. When you were interviewed by the police on this

10:33:00 4 March thirteenth, 2013 statement that we spoke about, what

10:33:05 5 were you told in regards to your status as a suspect in

10:33:08 6 this case?

10:33:09 7 A. I wasn't.

10:33:10 8 Q. You were not a suspect?

10:33:12 9 A. No.

10:33:14 10 Q. On cross-examination you testified that you waited

10:33:25 11 to get involved with Jennifer Wescott until she was

10:33:30 12 eighteen.

10:33:30 13 A. Yep.

10:33:31 14 Q. Did you ever try to sell Jennifer Wescott to pay for

10:33:37 15 a drug debt to a Bob Zacalla (ph)?

10:33:40 16 A. No.

10:33:41 17 MR. OAKES: Objection, Your Honor.

10:33:42 18 THE COURT: Don't answer. What's the

10:33:43 19 relevance?

10:33:44 20 MS. BIANCO: Judge, I believe this goes to

10:33:46 21 what he is willing to do to women.

10:33:49 22 THE COURT: I'm going to sustain the

10:33:50 23 objection. I think you're fishing. Sustained. You

10:33:57 24 don't have to answer the question.

10:34:02 25 Q. You talked on cross-examination about your

10:34:04 1 friendship with James Steen, do you remember that?

10:34:07 2 A. Yeah.

10:34:07 3 Q. Did you ever visit James Steen at his cabin on Route

10:34:12 4 11?

10:34:14 5 A. No.

10:34:15 6 Q. Never?

10:34:16 7 A. Naw, not on Route 11.

10:34:18 8 Q. Pardon?

10:34:18 9 A. No.

10:34:19 10 MS. BIANCO: No further questions.

10:34:25 11 THE COURT: Any recross, Mr. Oakes?

10:34:27 12 MR. OAKES: No thank you, Your Honor.

10:34:28 13 THE COURT: No thank you?

10:34:29 14 MR. OAKES: No thank you.

10:34:30 15 THE COURT: Okay. As we talked about with Mr.

10:34:34 16 Steen which is probably going to be an issue for Mr.

10:34:36 17 Breckenridge's attorney, do we anticipate calling him

10:34:39 18 in any other capacity during this proceeding let's say

10:34:43 19 this week?

10:34:44 20 MR. OAKES: The People do not, Your Honor.

10:34:45 21 THE COURT: Okay.

10:34:47 22 MS. PEEBLES: Not that I believe, Your Honor.

10:34:48 23 THE COURT: So the same thing, status with Mr.

10:34:50 24 Steen, Mr. Breckenridge can go back to the Department

10:34:53 25 of Corrections?

10:34:53 1 MS. PEEBLES: Yes.

10:34:54 2 MR. OAKES: Yes, Your Honor. Thank you.

10:34:55 3 THE COURT: Thank you, Mr. Breckenridge. Ms.

10:35:04 4 Peebles or Ms. Bianco, your next witness?

10:35:08 5 MS. PEEBLES: The defense calls Michael

10:35:12 6 Bohrer.

7 THE COURT: Michael Bohrer?

10:36:06 8 MS. PEEBLES: Yes.

10:36:06 9 THE COURT: Mr. Oakes and Mr. Moody, was an

10:36:08 10 order regarding Mr. Thibodeau given to the clerk's

10:36:11 11 office?

10:36:12 12 MR. MOODY: I believe it -- Amy, I have a note

10:36:15 13 here that Amy took one.

10:36:57 14 THE CLERK: Please stand. Please raise your

10:37:06 15 right hand, put your left on the Bible.

10:37:10 16 M I C H A E L B O H R E R, Called as a witness, having

10:37:21 17 been duly sworn, was examined and testified as follows:

10:37:21 18 THE CLERK: Please state your name for the

10:37:23 19 record.

10:37:23 20 THE WITNESS: Michael Bohrer.

10:37:24 21 THE CLERK: Please spell your last name.

10:37:26 22 THE WITNESS: B-O-H-R-E-R.

10:37:31 23 THE CLERK: Okay, please have a seat.

10:37:34 24 THE COURT: Mr. Bohrer, have a seat please.

10:37:36 25 Mr. Bohrer, before we get going, I'm going to ask you

10:37:38 1 do you consent to have your testimony audio and
10:37:40 2 videotaped?

10:37:42 3 THE WITNESS: No.

10:37:43 4 THE COURT: Okay. That's fine.

10:37:49 5 DIRECT EXAMINATION

10:37:49 6 BY MS. PEEBLES:

10:37:50 7 Q. Mr. Bohrer, what was in the briefcase that you
10:37:52 8 brought into court today? What's in the briefcase?

10:37:55 9 MR. MOODY: Objection, Judge, relevance.

10:37:59 10 MS. PEEBLES: I think the Judge wants to know
10:38:00 11 and I'd like to know.

10:38:01 12 THE COURT: No, I don't want to know. I just
10:38:03 13 don't want it on the witness stand. I'll sustain the
10:38:05 14 objection.

10:38:05 15 MS. PEEBLES: Well, does it have anything to
10:38:07 16 do with the Heidi Allen case?

10:38:09 17 MR. MOODY: Judge --

10:38:11 18 THE COURT: If you want to -- did you issue a
10:38:13 19 subpoena duces tecum for his documents?

10:38:16 20 MS. PEEBLES: No, I didn't, Judge, but he
10:38:18 21 brought them here in court.

10:38:19 22 THE COURT: Sustained then.

10:38:20 23 Q. Are you a Canadian citizen?

10:38:22 24 A. I don't know if I'm dual or not.

10:38:26 25 Q. You don't know?

- 10:38:28 1 A. I was naturalized at six.
- 10:38:32 2 Q. Were you born in Canada?
- 10:38:34 3 A. Yes. I was born in Quebec.
- 10:38:37 4 Q. So that's where you're from, Canada?
- 10:38:40 5 A. I was born there, yep.
- 10:38:42 6 Q. You have been there recently?
- 10:38:44 7 A. Not since I was adopted.
- 10:38:49 8 Q. Now, you have dual citizenship?
- 10:38:54 9 A. I spoke with a Canadian at one time and he says he
- 10:39:01 10 doesn't see why I wouldn't be and I told him I was
- 10:39:04 11 naturalized.
- 10:39:06 12 Q. When were you --
- 10:39:06 13 A. And he says well, Canada still recognizes -- should
- 10:39:11 14 still recognize you.
- 10:39:13 15 Q. When were you naturalized? When did you --
- 10:39:17 16 MR. MOODY: Your Honor, I'm going to object.
- 10:39:18 17 What is the relevance of this?
- 10:39:19 18 THE COURT: Where are we going with this?
- 10:39:20 19 MS. PEEBLES: It's relevant, Your Honor.
- 10:39:21 20 THE COURT: How? You can say it's relevant.
- 10:39:22 21 Tell me how it's relevant.
- 10:39:24 22 MS. PEEBLES: It's relevant to his
- 10:39:25 23 credibility. I have other things that I'm going to
- 10:39:28 24 introduce about how he wound up in Oswego County.
- 10:39:30 25 MR. MOODY: So she's impeaching her own

10:39:33 1 witness now?

10:39:34 2 MS. PEEBLES: No. I'm asking him questions
10:39:35 3 about his background which I'm entitled to do despite
10:39:39 4 the fact --

10:39:40 5 MR. MOODY: I want the relevance of what his
10:39:42 6 nationality is.

10:39:42 7 THE COURT: What's the relevance of whether
10:39:44 8 he's a dual citizen or not a dual citizen?

10:39:47 9 MS. PEEBLES: He may not be a US citizen and
10 10 that's what I'm questioning him about.

11 THE COURT: Why is that relevant?

12 MS. PEEBLES: Because he has a felony
10:39:52 13 conviction out of Wisconsin.

10:39:52 14 THE COURT: Why's that relevant to what he may
10:39:54 15 or may not know about Heidi Allen?

10:39:56 16 MS. PEEBLES: Because, Your Honor, it was for
10:39:59 17 unlawful imprisonment of a woman.

10:40:00 18 MR. MOODY: So now we're impeaching our own
10:40:02 19 witness again.

10:40:03 20 THE COURT: I'm going to sustain the
10:40:05 21 objection. I don't see whether he's a dual citizen or
10:40:08 22 not is relevant.

10:40:19 23 Q. Do you have a history of violence against women?

10:40:22 24 MR. MOODY: Objection, Judge, relevance.

10:40:25 25 THE COURT: Ms. Peebles, he's your witness.

10:40:26 1 MS. PEEBLES: I'm asking him if he did, I'm
10:40:29 2 not impeaching him. He has an opportunity to say yes
10:40:31 3 or no. How am I impeaching him?

10:40:32 4 THE COURT: Answer the question, Mr. Bohrer.

10:40:35 5 A. Can you repeat the question?

10:40:37 6 Q. Do you have a history of violence against women?

10:40:42 7 MR. MOODY: Objection, foundation. Can we
10:40:43 8 have a time frame, can we have anything?

10:40:45 9 THE COURT: I'll go with time frame. Do you
10:40:47 10 have a time frame, Ms. Peebles?

10:40:49 11 MS. PEEBLES: Yeah. Just for the record, I
10:40:54 12 don't have to make my witness a credible, wonderful
10:40:59 13 person because I call them.

10:41:00 14 THE COURT: I'm not denying that, Ms. Peebles,
10:41:03 15 but you cannot attack your own witness the minute he
10:41:06 16 sits down on the witness stand.

10:41:07 17 MS. PEEBLES: I'm not attacking him.

10:41:09 18 THE COURT: You're backdooring the attack, Ms.
10:41:12 19 Peebles. Answer the question when or give a time frame
10:41:14 20 for Mr. Bohrer.

10:41:15 21 Q. Mr. Bohrer, between 1981 and 1996, do you have a
10:41:21 22 history of violence against women?

10:41:24 23 A. I don't consider it as violence.

10:41:29 24 Q. Well, what do you mean by that?

10:41:32 25 A. I didn't hit any woman.

10:41:38 1 Q. Do you date a female by the name of Tina?

10:41:42 2 A. Yep.

10:41:43 3 MR. MOODY: I'm going to object where we're
10:41:44 4 going with this. Are we going to -- are we going to
10:41:49 5 establish his violent history or are we going to ask
10:41:51 6 him what he knows about this case?

10:41:53 7 THE COURT: What is relevant about his
10:41:56 8 history? He is not on trial right now. The question
10:41:58 9 is what does he or does he not know about the Heidi
10:42:00 10 Allen case.

10:42:02 11 MS. PEEBLES: Just so I'm clear so I know what
10:42:04 12 I'm allowed to question my own witness on, is the Court
10:42:06 13 restricting me to simply asking him only about the
10:42:09 14 Heidi Allen case and nothing more? I want it clear.

10:42:12 15 THE COURT: Are you trying to prosecute your
10:42:14 16 own witness, Ms. Peebles?

10:42:15 17 MS. PEEBLES: Am I trying to prosecute them?

10:42:17 18 THE COURT: Yes.

10:42:17 19 MS. PEEBLES: Well, if I had the authority to
10:42:20 20 I would, but no.

10:42:21 21 THE COURT: It sounds like you're putting him
10:42:22 22 on trial, Ms. Peebles.

23 MS. PEEBLES: Judge, I'm trying --

10:42:24 24 THE COURT: The relevant issue to this case is
10:42:25 25 what he may or may not have said or what is or not in

10:42:28 1 his knowledge regarding Heidi Allen. How is whether or
10:42:32 2 not he was or was not violent toward women in a time
10:42:35 3 frame of fifteen years relevant to what he knows about
10:42:37 4 Heidi Allen?

10:42:39 5 MS. PEEBLES: Well, Your Honor, I think it's
10:42:41 6 obvious that the theory of the government is that she
10:42:45 7 was abducted and kidnapped and murdered, so that would
10:42:48 8 be a violent act, and I am trying to establish some
10:42:52 9 background on Mr. Bohrer.

10:42:54 10 THE COURT: I'm going to deny it.

10:42:55 11 MS. PEEBLES: Okay, so --

10:42:59 12 THE COURT: I'm going to sustain the
10:43:00 13 objection. Excuse me.

10:43:01 14 Q. All right, when did you arrive in Oswego County, Mr.
10:43:05 15 Bohrer?

10:43:06 16 A. Fall of 1991 I believe.

10:43:11 17 Q. And when you arrived in Oswego County in 1991, where
10:43:15 18 were you living.

10:43:17 19 A. On -- when I arrived?

10:43:22 20 Q. Yeah, when you arrived, when you arrived in Oswego
10:43:24 21 County in 1991, where did you move to? Where did you live?

10:43:28 22 A. Well, I'm -- I'm not sure I understand the question
10:43:40 23 because I originally came to be best man for a wedding at
10:43:51 24 Spinners.

10:43:53 25 Q. Okay.

10:43:54 1 THE COURT: At where?

10:43:55 2 THE WITNESS: Spinners.

10:43:55 3 THE COURT: Okay.

10:43:56 4 Q. Now Spinners?

10:43:57 5 A. In New Haven.

10:43:58 6 Q. Okay, is that where you went when you first arrived

10:44:01 7 in Oswego County is Spinners?

10:44:03 8 A. Yes.

10:44:04 9 Q. Were you living at Spinners in 1991?

10:44:07 10 A. Eventually, because after the wedding I -- since I

10:44:12 11 was discharged from IBM, I thought well, fishing, whatever,

10:44:22 12 you know, I got the rest of my life to figure out what I

10:44:26 13 want to do.

10:44:27 14 Q. Okay, so you -- you were in Wisconsin before you

10:44:32 15 moved to Oswego County, right?

10:44:37 16 A. Yeah, but not directly.

10:44:41 17 Q. What do you mean by that?

10:44:45 18 A. I came to Oswego County in ninety-one.

10:44:51 19 Q. Okay.

10:44:52 20 A. I left Milwaukee in eighty-one.

10:44:54 21 Q. Okay, and oh, so where were you --

10:44:58 22 A. I was working for IBM Research and Development for

10:45:01 23 ten years.

10:45:01 24 Q. Between 1981 and the time you moved to Oswego

10:45:05 25 County?

10:45:05 1 A. Yep.

10:45:08 2 Q. Okay, so when you moved to Oswego County in 1991,
10:45:11 3 you were retired.

10:45:13 4 A. Correct.

10:45:14 5 Q. Now, do you remember -- did you -- did you live at
10:45:18 6 Spinners in 1991 or were you saying you were just there for
10:45:23 7 a wedding so I'm clear?

10:45:24 8 A. No. I only stayed at Spinners for that weekend of
10:45:30 9 the wedding. I might have stayed the rest of the week or
10:45:37 10 went back.

10:45:38 11 Q. Okay, so where did you go after you went to this
10:45:40 12 wedding?

10:45:41 13 A. Few days later.

10:45:42 14 Q. Where did you move to in Oswego County after you
10:45:45 15 went to that wedding?

10:45:46 16 A. Where did I go?

10:45:49 17 Q. Yeah. Where did you move to -- so you weren't
10:45:51 18 living at Spinners, but where did you move, where were you
10:45:54 19 staying overnight, where were you living?

10:45:55 20 A. Back -- back to Dutchess County where I lived.

10:45:58 21 Q. Dutchess County?

10:46:00 22 A. Yeah, that's where IBM is.

10:46:02 23 Q. Okay, when did you move to Oswego County? I guess I
10:46:05 24 thought you told me --

10:46:06 25 A. After the wedding and I hung out and met a few

10:46:09 1 people and said well, this would be a good place to move,
10:46:13 2 it's cheaper, now that I'm on a fixed income. I thought
10:46:19 3 I'd take my crack at fishing.

10:46:25 4 Q. So was that 1991?

10:46:27 5 A. I had an idea for wetland farming to help increase
10:46:33 6 wetlands that were being depleted.

10:46:38 7 Q. Okay, so 1991 you moved to Oswego County? Do you
10:46:45 8 know when you moved to Oswego County?

10:46:48 9 A. Yes, the fall.

10:46:50 10 Q. Of 1991.

10:46:51 11 A. Yes.

10:46:52 12 Q. All right, is that when you moved into Spinners?

10:46:56 13 A. No.

10:46:57 14 Q. Where were you living when you actually moved to
10:46:59 15 Oswego County?

10:47:00 16 A. I had acquired a place to live from a person that
10:47:07 17 lived in New Haven that owned a four-bedroom ranch house.

10:47:11 18 Q. Okay.

10:47:12 19 A. And he agreed to rent it to me.

10:47:15 20 Q. And how long did you stay there?

10:47:17 21 A. So I went back to Beacon, rented a U-haul and came
10:47:23 22 back to New Haven, filled the house up with my furniture
10:47:27 23 and met the neighbors, and that was -- that was it, you
10:47:36 24 know.

10:47:37 25 Q. So how long did you stay at that apartment where you

- 10:47:40 1 were living when you moved in there in 1991?
- 10:47:42 2 A. It was a four-bedroom ranch house.
- 10:47:45 3 Q. How long were you at the four-bedroom ranch house?
- 10:47:49 4 You were renting a room?
- 10:47:52 5 A. Maybe -- renting a room?
- 10:47:58 6 Q. Were you -- were you occupying the whole house?
- 10:48:00 7 A. I wasn't renting a room, I was renting the whole
- 10:48:03 8 house.
- 10:48:03 9 Q. Oh, okay, I thought you moved in with him, I'm
- 10:48:05 10 sorry, I misunderstood.
- 10:48:06 11 A. Moved in with who?
- 10:48:08 12 Q. I misunderstood what you said.
- 10:48:09 13 A. There was a gentleman that frequented Spinners that
- 10:48:13 14 owned the four-bedroom ranch house on Mason Road.
- 10:48:19 15 Q. And you lived there by yourself?
- 10:48:21 16 A. And I lived thereby myself.
- 10:48:23 17 Q. Gotcha, okay, so how long did you stay there?
- 10:48:25 18 A. I believe a little over two years, maybe three, two
- 10:48:32 19 I guess.
- 10:48:33 20 Q. And where were --
- 10:48:35 21 A. Definitely two winters.
- 10:48:37 22 Q. Where were you living in April of 1994?
- 10:48:40 23 A. Spinners.
- 10:48:42 24 Q. Okay, and Spinners is located where?
- 10:48:45 25 A. On six and 104B.

10:48:51 1 Q. And how far is Spinners from the D&W Convenience
10:48:55 2 Store?

10:48:56 3 A. Probably less than a half a mile.

10:48:59 4 Q. So you're familiar with where -- you were familiar
10:49:01 5 back then with where the D&W Convenience Store was?

10:49:04 6 A. Sure.

10:49:05 7 Q. And did you go to the D&W Convenience Store?

10:49:08 8 A. Sure.

10:49:09 9 Q. Did you know Heidi Allen?

10:49:11 10 A. Not really.

10:49:13 11 Q. Did she make you sandwiches?

10:49:15 12 A. Yes.

10:49:16 13 Q. So you knew who she was?

10:49:19 14 A. Just -- I mean she didn't have a name tag or
10:49:26 15 anything like that. I didn't really know her name.

10:49:33 16 MR. MOODY: I'm sorry, I can't understand him
10:49:35 17 while he's coughing.

10:49:36 18 THE COURT: Do you need water?

10:49:39 19 THE WITNESS: I'm getting it.

10:49:40 20 MR. MOODY: If you can have him repeat the
10:49:42 21 answer once he's done.

10:49:49 22 THE WITNESS: What was the question again
10:49:51 23 please?

10:49:53 24 MS. PEEBLES: I'd have to have it read back.

25 (Whereupon, the court reporter read back the

10:50:08 1 last question and answer).

10:50:08 2 A. Yep. In fact out of a hundred waitresses at
10:50:16 3 convenience stores, diners or whatever, none of them wear
10:50:20 4 name tags, and I probably maybe know two or three names to
10:50:24 5 this day.

10:50:26 6 Q. But you --

10:50:27 7 A. It's not uncommon for me not to know somebody's
10:50:30 8 name.

10:50:30 9 Q. Right.

10:50:30 10 A. Because I don't get personal with people in the
10:50:33 11 stores.

10:50:33 12 Q. Okay, but you --

10:50:34 13 A. And you can ask any one of them.

10:50:36 14 Q. But you knew who she was.

10:50:38 15 A. I was aware of who she was, she made my sandwiches.

10:50:41 16 Q. Okay, fair enough. How often would you go in there
10:50:44 17 to get sandwiches?

10:50:46 18 A. Probably every day sometimes. Not necessarily
10:50:52 19 because she was there.

10:50:53 20 Q. So I -- you were familiar --

10:50:56 21 A. Just a convenience store.

10:50:58 22 Q. And you were familiar with the layout of the
10:51:00 23 convenience store?

10:51:01 24 A. I'm not blind.

10:51:02 25 Q. And did you see where the work schedule was hanging

10:51:04 1 at the convenience store?

10:51:05 2 A. No.

10:51:06 3 Q. You never -- and you never said anything about it to
10:51:08 4 anybody about the work schedule?

10:51:11 5 A. When?

10:51:14 6 Q. Did you -- I guess my question is did you know or
10:51:20 7 observe where the work schedule was hanging at the D&W?

10:51:23 8 A. No, never.

10:51:25 9 Q. Did you ever tell anybody that you knew where the
10:51:27 10 work schedule was?

10:51:28 11 A. No.

10:51:28 12 Q. Did you ever write it down and hold it in any kind
10:51:32 13 of a box?

10:51:32 14 MR. MOODY: Objection, Judge, leading.

10:51:36 15 THE COURT: I'll allow it.

10:51:39 16 A. Hum?

10:51:40 17 Q. Did you ever --

10:51:41 18 THE COURT: Ask the question again.

10:51:43 19 Q. Did you ever write that information down and keep it
10:51:45 20 in a box?

10:51:46 21 THE COURT: Before he answers the question,

10:51:47 22 I'm not sure what information -- are you looking for a
10:51:49 23 specific schedule or the alleged location of the
10:51:52 24 schedule?

10:51:53 25 MS. PEEBLES: The alleged location of the

10:51:55 1 schedule.

10:51:55 2 THE COURT: Okay.

10:51:59 3 A. If you are referring to anything that was in the box
10:52:02 4 that I willingly gave over to the investigators, I -- I'd
10:52:11 5 have to look at the document to refresh my memory of what
10:52:15 6 it is you're talking about.

10:52:17 7 Q. Okay, I'll get back to that. Well, why don't we
10:52:21 8 talk about the box. Now, at some point did you become
10:52:26 9 obsessed with the Heidi Allen case?

10:52:28 10 MR. MOODY: Objection, Judge,
10:52:30 11 characterization.

10:52:31 12 THE COURT: I'll allow it.

10:52:33 13 A. Ask the question please.

10:52:35 14 Q. At some point after the abduction of Heidi Allen in
10:52:39 15 1994, did you become obsessed with the case?

10:52:42 16 A. I wouldn't say obsessed. Outraged.

10:52:47 17 Q. Okay, you mention this box that you willingly turned
10:52:52 18 over. Was that after you were interviewed by Investigator
10:52:56 19 Pietroski and Investigator Johnson at the Mapleview Diner?

10:53:01 20 A. You're speaking of the -- from a year ago or two
10:53:06 21 years ago?

10:53:06 22 Q. Yeah, March twenty-first of 2013.

10:53:08 23 A. Yes.

10:53:09 24 Q. Actually did you tell them about that box?

10:53:12 25 A. Yes. They weren't aware of it, and I said I'll tell

10:53:17 1 you what, I'll turn you over everything I have dug up.

10:53:19 2 Q. And in fact did you take them to where you lived?

10:53:23 3 A. Yes.

10:53:23 4 Q. And --

10:53:31 5 MS. PEEBLES: Pardon me for a moment.

10:53:32 6 THE COURT: Absolutely.

10:53:33 7 (Whereupon, there was a pause in the
10:53:44 8 proceeding.)

10:53:44 9 THE COURT: This is March of thirteen, Ms.
10:53:45 10 Peebles?

10:53:46 11 MS. PEEBLES: March, yeah, of 2013.

10:53:48 12 THE COURT: Thank you.

10:53:49 13 MS. PEEBLES: March twenty-first. May I
10:54:02 14 approach the witness?

10:54:03 15 THE COURT: Yes, absolutely.

10:54:04 16 Q. I'm going to hand you what's been marked as Exhibit
10:54:09 17 51A and ask if you can take a look at that and tell me --

10:54:15 18 THE COURT: That's the Defense Exhibit 51?

10:54:17 19 MS. PEEBLES: Defense Exhibit 51A.

10:54:19 20 A. Yeah, that's where I was for less than a year.

10:54:21 21 Q. Is that a fair and accurate depiction of where you
10:54:24 22 lived?

10:54:24 23 A. Yeah.

10:54:24 24 MS. PEEBLES: At this time I'd like to move
10:54:26 25 51A into evidence.

10:54:28 1 THE COURT: Can you give me a time frame when
10:54:29 2 he allegedly lived there?

10:54:31 3 MS. PEEBLES: March twenty-first of 2013.

10:54:33 4 THE COURT: So this was where he was living
10:54:36 5 when this box was turned over?

10:54:37 6 MS. PEEBLES: When he went with Investigator
10:54:39 7 Pietroski and Johnson, yes.

10:54:40 8 THE COURT: Any objection?

10:54:42 9 MR. MOODY: Can I see the exhibit?

10:54:56 10 THE COURT: Ms. Peebles, does it have an
10:54:58 11 address?

10:54:59 12 MS. PEEBLES: I'm going to ask him that.

10:55:01 13 THE COURT: Okay.

10:55:01 14 MR. MOODY: Judge, I'm not sure I get the
10:55:04 15 relevance of where he was living in March of 2013, so
10:55:06 16 my objection isn't necessarily to the -- to the exhibit
10:55:11 17 themselves, I guess 51A through C or just 51A.

10:55:15 18 MS. PEEBLES: I'm going to introduce all of
10:55:17 19 them.

10:55:17 20 MR. MOODY: I'm not sure what the relevance is
10:55:19 21 of where he was living in March of 2013.

10:55:21 22 THE COURT: What's the relevance, Ms. Peebles?

10:55:22 23 MS. PEEBLES: It's where the box was, and they
10:55:24 24 went, and these are pictures that the investigator took
10:55:27 25 when they collected the box of memorabilia surrounding

10:55:30 1 Heidi Allen.

10:55:31 2 THE COURT: What's the relevance? What's the
10:55:32 3 difference if they picked them up at McDonald's or at
10:55:35 4 his house?

10:55:35 5 MS. PEEBLES: I think it's important for the
10:55:37 6 Court to see exactly where it was in his living
10:55:40 7 quarters. I'm providing -- I just want to provide the
10:55:42 8 Court with information.

10:55:43 9 MR. MOODY: If the issues are on the box, we
10:55:46 10 got the box here.

10:55:48 11 MS. PEEBLES: I have the contents of the box.
10:55:50 12 I'm getting to that.

10:55:50 13 THE COURT: I'm going to sustain the
10:55:51 14 objection. I don't see the relevance of where the box
10:55:54 15 comes from.

10:55:54 16 Q. Where were you living? What was the address of that
10:55:59 17 place where you were residing when you went with
10:56:02 18 investigators on March twenty-first of 2013?

10:56:04 19 A. I think it was 257 Bengal Road.

10:56:10 20 Q. And where is Rice Road in connection with Bengal
10:56:12 21 Road?

10:56:13 22 A. Not far from that address.

10:56:15 23 Q. Do you know how far?

10:56:17 24 A. Maybe a mile.

10:56:22 25 Q. A mile?

10:56:23 1 A. Well, less than a mile.

10:56:27 2 MS. BIANCO: Judge, perhaps if he could move
10:56:28 3 the microphone closer. We're having a hard time
10:56:32 4 hearing.

10:56:32 5 THE WITNESS: Sorry.

10:56:33 6 THE COURT: That better?

10:56:33 7 THE WITNESS: Yeah. It's just that it's right
10:56:35 8 in my face. Is that all right?

10:56:39 9 Q. And describe your -- what you were living in at that
10:56:42 10 address on Bengal Road.

10:56:44 11 A. I was living in a camper.

10:56:47 12 Q. And the box that you turned over to investigators,
10:56:51 13 where was that located when you took them there to give
10:56:53 14 them that information?

10:56:53 15 A. In the front.

10:56:57 16 Q. In the front?

10:56:59 17 A. Cab part of the camper.

10:57:02 18 Q. On the passenger seat?

10:57:04 19 A. I don't know -- no, it was kind of like in between.
10:57:09 20 I had all the -- it's like a catchall closet when you're
10:57:12 21 camping till you got to go somewhere.

10:57:16 22 Q. If I show you a photograph, would it refresh your
10:57:19 23 recollection of where exactly the box was?

10:57:21 24 A. Sure.

10:57:25 25 Q. Handing you what's been marked as Defendant's

10:57:27 1 Exhibit B, I'll ask you to take a look at that.

10:57:30 2 THE COURT: B or D?

10:57:32 3 MS. PEEBLES: B.

10:57:33 4 THE COURT: Thank you.

10:57:36 5 MR. MOODY: Did she say defense?

10:57:38 6 THE COURT: Defense Exhibit B, 51B.

10:57:42 7 MS. PEEBLES: 51B.

10:57:44 8 MR. MOODY: I thought you said B. I thought

10:57:48 9 we were using letters.

10:57:48 10 Q. Does that refresh your recollection, Mr. Bohrer,

10:57:50 11 about where the box was?

10:57:51 12 A. Well, I'm quite aware of my camper. I'm just

10:57:59 13 validating that yes, that's my camper.

10:58:01 14 Q. Okay, and the box in the picture, where was it?

10:58:04 15 A. I don't know. About the only thing I could make out

10:58:12 16 was the air conditioner and the window, the door of the

10:58:20 17 passenger side. It's not a very good photo. Can I look at

10:58:24 18 it again?

10:58:25 19 Q. Sure.

10:58:34 20 A. Yep. I had pulled it and then the officer told me

10:58:39 21 to set aside so he can take a picture before I took it out.

22 Q. Okay.

10:58:44 23 A. But that is not the original position when that door

10:58:48 24 was opened.

10:58:48 25 Q. Okay, so but it was in the front cab part of the RV?

- 10:58:52 1 A. Right.
- 10:58:52 2 Q. When -- when Heidi Allen was abducted, were you ever
- 10:59:13 3 interrogated by sheriff's investigators?
- 10:59:17 4 A. I was questioned.
- 10:59:18 5 Q. And when was that?
- 10:59:20 6 A. Less than two weeks.
- 10:59:31 7 Q. Less than two weeks from when? I'm sorry.
- 10:59:35 8 A. After Heidi was abducted.
- 10:59:37 9 Q. And did you drive yourself down to the Sheriff's
- 10:59:41 10 Department or did they come and get you?
- 10:59:43 11 A. No, I think they pulled me over.
- 10:59:45 12 Q. Pulled you over for what?
- 10:59:47 13 A. To question me.
- 10:59:48 14 Q. Were you driving when they pulled you over?
- 10:59:50 15 A. I believe so.
- 10:59:51 16 Q. And you -- were you -- did you commit any traffic
- 10:59:55 17 infractions for them to pull you over?
- 10:59:57 18 A. No.
- 10:59:59 19 Q. Do you remember what road you were on when they
- 11:00:01 20 pulled you over?
- 11:00:01 21 A. I believe it was -- it was six, on the other side of
- 11:00:09 22 104B from the Spinners.
- 11:00:12 23 Q. And at that time you were still living at Spinners?
- 11:00:15 24 A. Hah?
- 11:00:16 25 Q. At that time you were still living at Spinners?

11:00:18 1 A. I believe so.

11:00:18 2 Q. Okay, so when they pulled you over, do you recall
11:00:21 3 who it was that pulled you over?

11:00:22 4 A. That's a little fuzzy. I don't know if it was Bobby
11:00:27 5 Wheeler or a deputy. I don't remember. I think it was
11:00:36 6 Bobby Wheeler.

11:00:36 7 Q. Were there two of them, two deputies that pulled you
11:00:39 8 over or just one?

11:00:40 9 A. I don't have that much detail in my memory of it.
11:00:50 10 It was a casual encounter and I answered all their
11:00:54 11 questions.

11:00:54 12 Q. So when they took you down to where, Oswego County
11:00:58 13 Sheriff's Department? Is that where they took you?

11:01:00 14 A. No.

11:01:00 15 Q. Where'd they take you?

11:01:02 16 A. They never took me anywhere.

11:01:04 17 Q. Did you tell Investigator Pietroski and Investigator
11:01:08 18 Johnson that you were brought down to the Sheriff's
11:01:10 19 Department?

11:01:10 20 MR. MOODY: Objection, Judge, leading.

11:01:12 21 THE COURT: Please don't answer, sir. What's
11:01:14 22 the objection, sir?

11:01:15 23 MR. MOODY: It's leading. Did you tell.

11:01:17 24 THE COURT: It's harmless leading. I'll allow
11:01:20 25 it.

11:01:22 1 Q. You can answer.

11:01:24 2 A. You want to repeat the question?

11:01:25 3 Q. Sure. I'm sorry.

11:01:26 4 (Whereupon, the court reporter read back the
11:01:41 5 last question).

11:01:41 6 THE COURT: Before you -- can you give the
11:01:43 7 Court at least a time when this alleged statement was
11:01:46 8 made to Pietroski and this other investigator?

11:01:50 9 MS. PEEBLES: Yes.

11:01:51 10 THE COURT: Thank you.

11:01:51 11 MS. PEEBLES: On March twenty-first of 2013.

11:01:53 12 THE COURT: Thank you.

11:01:53 13 Q. When you spoke to Investigator Pietroski and
11:01:56 14 Investigator Johnson.

11:01:57 15 A. Um hum.

11:01:57 16 Q. Did you tell them that they brought you down to the
11:02:00 17 Sheriff's Department?

11:02:01 18 A. Not on the first questioning of me, no.

11:02:06 19 Q. How many times were you questioned, let's settle
11:02:10 20 that. So two weeks after she ends up missing, you're
11:02:15 21 questioned and you're questioned where?

11:02:17 22 A. I think three to four. I'm sure they have an
11:02:24 23 accurate record of it.

11:02:26 24 Q. Don't be so sure.

11:02:29 25 A. Well, I would hope their records would be accurate.

11:02:33 1 Q. Where -- where were you when they were questioning
11:02:38 2 you?

11:02:39 3 MR. MOODY: Okay, which time are we talking
11:02:41 4 about?

11:02:42 5 Q. That particular time, I'm still on the time when
11:02:44 6 they pulled you over, two weeks after.

11:02:45 7 THE COURT: Okay.

11:02:46 8 A. Less than two weeks.

11:02:47 9 Q. Less than two weeks?

11:02:50 10 A. And where did they take me you're asking me?

11:02:54 11 Q. Where were you? Where were they asking you the
11:02:56 12 questions, in your car or --

11:02:58 13 A. Outside my car.

11:02:59 14 Q. I see, okay, and --

11:03:00 15 A. It was a friendly country encounter of the local
11:03:05 16 Oswego sheriffs. I knew eventually they would be
11:03:09 17 questioning me because I was the new kid on the block, it's
11:03:13 18 only natural that they would so --

11:03:15 19 Q. And what did they ask you when they pulled you over
11:03:18 20 on the roadside?

11:03:19 21 A. General questions. I -- more than likely -- well, I
11:03:32 22 don't know. Ask them.

11:03:34 23 Q. Do you have any recollection of what they asked you?

11:03:37 24 A. I'm sure they asked me where I was the night before
11:03:44 25 Heidi disappeared or whatever and where I was that morning.

11:03:48 1 Q. Where?

11:03:48 2 A. I'm sure, I mean that's why the reason why they, you
11:03:54 3 know, wanted to check up on me because, you know, there's a
11:04:01 4 girl missing. Of course you're going to ask the new
11:04:05 5 stranger in the community.

11:04:07 6 Q. And when they asked you that question, what did you
11:04:11 7 tell them? Where were you?

11:04:13 8 A. I don't think this is a fair line of questioning. I
11:04:24 9 should be asked exactly the same question that they asked
11:04:26 10 me.

11:04:26 11 THE COURT: It's not up to you to determine
11:04:28 12 whether it's a fair line of questioning. Answer the
11:04:30 13 question.

11:04:31 14 A. I don't remember exactly how the questions were so I
11:04:34 15 really can't answer accurately how I responded.

11:04:39 16 Q. Well, let me ask you --

11:04:40 17 A. I can tell you in general.

11:04:42 18 Q. Okay, well, let me ask you this. Where were you the
11:04:45 19 morning Heidi Allen was abducted in 1994?

11:04:48 20 A. At what time?

11:04:52 21 Q. Between seven in the morning and eight o'clock in
11:04:55 22 the morning.

11:04:56 23 A. Passed out at Hermie Jordal's in little Texas.

11:05:00 24 Q. And did you tell that to the officers when they were
11:05:03 25 asking you those questions that morning?

- 11:05:05 1 A. Sure.
- 11:05:06 2 Q. And who is Hermie Jordal?
- 11:05:09 3 A. He was a person that I befriended in the community.
- 11:05:17 4 Q. Is he still alive today?
- 11:05:19 5 A. No, he is not.
- 11:05:21 6 Q. Were you with anyone else at Hermie Jordal's house?
- 11:05:30 7 A. No because when we got to his house we were both
- 11:05:36 8 pretty drunk and he let me stay there instead of driving
- 11:05:43 9 back to Spinners so.
- 11:05:45 10 Q. Let me ask you this. What were you driving in 1994?
- 11:05:49 11 A. I believe it was a black eighty-seven GMC truck.
- 11:05:57 12 Q. So you were driving the black pickup truck in 1994?
- 11:06:03 13 A. I believe so.
- 11:06:03 14 Q. Now you had this conversation on the roadside. I'm
- 11:06:11 15 going back to when you were questioned two weeks --
- 11:06:13 16 A. Oh, wait, you jogged my memory. I think I had a
- 11:06:16 17 Ford seventy-two, wasn't a GT0, Ford. I don't know. I
- 11:06:32 18 can't remember.
- 11:06:32 19 Q. Okay, are you saying now you don't remember what you
- 11:06:34 20 were driving in 1994?
- 11:06:35 21 A. Oh, no, it was green, it was the Galaxy.
- 11:06:39 22 Q. Okay.
- 11:06:39 23 A. My God, I, you know, yeah, I had a Galaxy at that
- 11:06:43 24 time.
- 11:06:43 25 Q. Okay, so you weren't driving a black pickup truck in

11:06:47 1 1994, that's your testimony?

11:06:51 2 A. If I had mistakenly said I had the black truck, I
11:06:58 3 apologize.

11:06:58 4 Q. Are you denying that you ever had a black truck?

11:07:00 5 A. No.

11:07:02 6 Q. When did you have a black truck?

11:07:05 7 A. After I had the green Galaxy.

11:07:06 8 Q. Did you tell Investigator Pietroski and Investigator
11:07:10 9 Johnson that you were driving a black pickup truck in 1994?

11:07:15 10 A. I answered it this time as a black truck so more
11:07:23 11 than likely I said a black truck, not remembering the
11:07:28 12 Galaxy.

11:07:30 13 Q. Now --

11:07:31 14 A. You have to understand when they were questioning
11:07:33 15 me, I had just -- they woke me up.

11:07:38 16 Q. You were sleeping while you were driving?

11:07:40 17 A. I had not -- hah?

11:07:41 18 Q. Wait. Where are you talking about, the questioning.
11:07:44 19 Oh, Investigator Pietroski and Johnson?

11:07:47 20 A. Yeah, 2013.

11:07:49 21 Q. Where did -- you didn't meet them at your house
11:07:51 22 though did you?

11:07:52 23 A. No. I met them at the Mapleview Diner.

11:08:00 24 Q. What time of day was that?

11:08:02 25 A. I believe it was morning, sometime late morning.

11:08:14 1 Q. How long did the interview last?

11:08:23 2 A. Including taking them to my place to get the box?

11:08:31 3 Q. Did they drive you in the car to take you to get the

11:08:34 4 box?

11:08:34 5 A. No, they followed me.

11:08:35 6 Q. Yeah. Including getting the box, how long was it do

11:08:39 7 you think?

11:08:39 8 A. I -- I guess at least an hour.

11:08:42 9 Q. Have you ever listened to the audio recording of the

11:08:46 10 interview between you and Investigator Pietroski and

11:08:49 11 Investigator Johnson?

11:08:50 12 A. No.

11:08:51 13 Q. All right. Now, let's get back to 1994. After

11:08:59 14 you're questioned on the roadside, were you ever questioned

11:09:03 15 again after that roadside conversation with Deputy Wheeler?

11:09:10 16 A. Yeah, I was -- I was questioned much later down the

11:09:24 17 road. I don't remember how long. More than a year. I'm

11:09:32 18 not sure.

11:09:32 19 Q. Now was that an interview with the Oswego County

11:09:35 20 Sheriff's Department?

11:09:38 21 A. Yeah. The only people I've ever spoke with.

11:09:42 22 Q. Didn't you speak with the FBI?

11:09:46 23 A. You know, you're -- you've got facts that coincide

11:09:55 24 with four or five different time frames and you're throwing

11:10:01 25 them all in and it's a one --

11:10:04 1 THE COURT: You don't understand the question,
11:10:05 2 ask her to rephrase the question. Don't make a
11:10:07 3 statement to Ms. Peebles.

11:10:08 4 THE WITNESS: Well, she's --

11:10:10 5 THE COURT: Ask -- if you don't understand the
11:10:11 6 question, simply ask her to rephrase the question.

11:10:14 7 A. Ask the previous questions that you just last asked.

11:10:17 8 Q. My question was after the roadside conversation with
11:10:20 9 Deputy Wheeler, were you interviewed again by the Oswego
11:10:24 10 County Sheriff's Department?

11:10:26 11 A. Yes.

11:10:28 12 Q. Okay, and do you know when that was?

11:10:32 13 A. When. It -- it's -- I'll have to say I don't know.

11:10:40 14 Q. You don't know?

11:10:41 15 A. No.

11:10:41 16 Q. Did you ever sign a sworn statement?

11:10:50 17 A. At an investigation, interrogation?

11:10:58 18 Q. Yes.

11:10:58 19 A. I don't believe so.

11:11:02 20 MS. PEEBLES: Judge, can I have a moment?

11:11:03 21 THE COURT: Sure.

22 (Whereupon, there was a pause in the
11:11:20 23 proceeding).

11:11:20 24 THE COURT: Do you need more time, Ms.
11:11:22 25 Peebles?

11:11:22 1 MS. PEEBLES: If I could just a minute, I'm
11:11:24 2 trying to locate a document, Judge, that I wasn't going
11:11:26 3 to use but I am now.

11:11:27 4 THE COURT: That's okay. Are you anticipating
11:11:37 5 five minutes, less than five minutes?

11:11:39 6 MS. PEEBLES: Can I have five minutes, Judge?
11:11:41 7 I may have to --

11:11:43 8 THE COURT: Let's recess for five minutes.
11:11:50 9 Sir, you can step down.

10 (Whereupon, there was a recess).

11:16:19 11 THE COURT: We're back on the record. Are you
11:16:20 12 ready, Ms. Peebles, Ms. Bianco?

11:16:22 13 MS. PEEBLES: I think the witness is speaking
11:16:24 14 with his attorney right now.

11:16:25 15 THE COURT: Okay. Would you mind seeing if
11:16:32 16 they're ready to come back in?

17 (Whereupon, there was a pause in the
11:16:37 18 proceeding).

11:18:22 19 THE COURT: We're back on the record. Ms.
11:18:25 20 Peebles.

11:18:25 21 MS. PEEBLES: Yes.

11:18:25 22 Q. Mr. Bohrer, I was asking you some questions about --

11:18:28 23 THE COURT: I don't mean to cut you off. Mr.
11:18:29 24 Bohrer, consider the fact that you're still under oath,
11:18:31 25 okay?

11:18:31 1 THE WITNESS: Yes.

11:18:32 2 THE COURT: Sorry about that. Go ahead.

11:18:35 3 Q. Mr. Bohrer, you indicated that you were interviewed
11:18:41 4 a couple times, but you don't remember the second time who
11:18:45 5 you were interviewed by. Is there a document that might
11:18:51 6 refresh your recollection as to who may have interviewed
11:18:54 7 you?

11:18:55 8 A. The second time I was interviewed?

11:18:58 9 Q. Yes.

11:19:00 10 A. I guess -- I think the only thing I remember is
11:19:19 11 being in the interview room and there were about ten
11:19:21 12 sheriffs standing, sitting in chairs and standing around,
11:19:24 13 pretty much just looking at me.

11:19:25 14 Q. Just looking at you? What do you mean by that?

11:19:30 15 A. I mean they were asking me questions, I don't
11:19:40 16 remember the questions, but it wasn't just one or two
11:19:51 17 sheriffs there.

11:19:53 18 Q. There were ten?

11:19:55 19 A. I don't know.

11:19:57 20 Q. Did you give a statement at that point?

11:20:02 21 A. I don't remember.

11:20:03 22 Q. Is there a document that might help refresh your
11:20:09 23 recollection as to whether or not you gave a statement?

11:20:13 24 A. Well, I'm sure it would help.

11:20:16 25 Q. Okay, I'm going to approach and hand you what's been

11:20:19 1 marked as Defendant's Exhibit 129 and ask you to look at
11:20:23 2 that document and read it to yourself and tell me if it
11:20:26 3 helps refresh your recollection.

11:20:30 4 (Whereupon, there was a pause in the
11:21:09 5 proceeding.)

11:21:09 6 A. This is from the FBI office?

11:21:12 7 Q. Does that refresh your recollection?

11:21:43 8 THE COURT: If the Court's correct, the
11:21:45 9 question is refreshing your recollection as to whether
11:21:47 10 or not a statement was given, correct?

11:21:50 11 MS. PEEBLES: Yes.

11:22:30 12 A. This is to the FBI?

11:22:33 13 Q. I'm asking you does that document refresh your
11:22:35 14 recollection about whether you gave a statement to an FBI
11:22:38 15 agent.

11:22:42 16 THE COURT: The question should actually be
11:22:43 17 did you give a statement. Now the question is does it
11:22:47 18 refresh your recollection as to whether you gave the
11:22:49 19 FBI agent. Is that now an amended question because the
11:22:52 20 first question was does it refresh your recollection as
11:22:54 21 to whether or not a statement was given. He then asked
11:22:59 22 you a question which was inappropriate but you then
11:23:02 23 changed the question.

11:23:03 24 MS. PEEBLES: Because of his question, Judge.

11:23:04 25 THE COURT: So that puts a new question. What

11:23:06 1 is your new question?

11:23:07 2 Q. My new question is --

11:23:07 3 THE COURT: Thank you.

11:23:07 4 Q. -- does that refresh your recollection with regard
11:23:10 5 to whether or not you gave a statement to the FBI back in
11:23:13 6 1995?

11:23:14 7 THE COURT: Thank you.

11:23:15 8 A. Is this --

11:23:43 9 THE COURT: Mr. Bohrer, you cannot ask a
11:23:45 10 question. Does that document that you have been handed
11:23:49 11 refresh your recollection as to whether or not you gave
11:23:52 12 a statement to the FBI in 1995? That's it. It's
11:23:58 13 either yes or no.

11:23:59 14 THE WITNESS: Yes.

11:24:00 15 Q. And having refreshed your recollection, do you
11:24:07 16 recall theorizing that it was a drug motive which resulted
11:24:14 17 in Heidi Allen being kidnapped?

11:24:17 18 MR. MOODY: Judge, I'm going to object. I
11:24:19 19 think that's a leading question. It's --

11:24:21 20 THE COURT: It's leading. I'll sustain as to
11:24:22 21 leading.

11:24:22 22 Q. Well, okay, what did you tell the FBI now that
11:24:25 23 you've read the report?

11:24:28 24 A. I don't know.

11:24:39 25 Q. You don't know or you don't remember?

11:24:48 1 A. You got me so I'm afraid if I make a mistake on what
11:24:52 2 little I read there, then my credibility will be stained or
11:25:01 3 something. I don't have photographic memory.

11:25:03 4 Q. I'm not suggesting you do. Do you know the general
11:25:07 5 substance of what you told the FBI after having read this
11:25:09 6 report? I'm not going to hold you word for word.

11:25:13 7 A. Well, not at this time.

11:25:23 8 Q. Not at this time?

11:25:26 9 A. I would have to read it more seriously.

11:25:31 10 Q. Well, if we took a break and allowed you to sit down
11:25:34 11 and read it at the lunch break perhaps and I'll go back to
11:25:37 12 a different line --

11:25:38 13 THE COURT: I think the appropriate line of
11:25:40 14 questioning would be if you review the document again,
11:25:41 15 would it refresh your recollection of what you said to
11:25:44 16 the FBI.

11:25:45 17 Q. If you reviewed this document a second time and you
11:25:47 18 had more time to read it, would that help assist you in
11:25:50 19 refreshing --

11:25:51 20 A. I'm sure it would.

11:25:56 21 THE COURT: Present it.

11:26:01 22 (Whereupon, there was a pause in the
11:26:03 23 proceeding).

11:26:24 24 MS. PEEBLES: Judge, in order to save a little
11:26:27 25 time, I'm suggesting perhaps I allow Mr. Bohrer at the

11:26:29 1 lunch break to take the document and review it a little
11:26:32 2 more thoroughly and I'll start a different line of
11:26:35 3 questioning.

11:26:36 4 THE COURT: Is that a refreshment of
11:26:39 5 recollection or is that a -- he completely forgot, now
11:26:41 6 he's learning it again? It's a difference.

11:26:45 7 MR. MOODY: I'm fine with that, Judge.

11:26:47 8 THE COURT: Okay, Mr. Bohrer, give the
11:26:48 9 document back to Ms. Peebles. With the consent of the
11:26:53 10 People, you can review it -- you want to photocopy it
11:26:56 11 for him to review on the lunch hour break?

11:26:58 12 MS. PEEBLES: We have an extra copy.

11:26:59 13 THE COURT: I would ask that you give him a
11:27:01 14 copy, not that one.

11:27:02 15 MS. PEEBLES: Yes.

11:27:02 16 THE COURT: Okay, and you can return to this
11:27:04 17 line of questioning after lunch?

11:27:06 18 MS. PEEBLES: Yes.

11:27:07 19 THE COURT: That's your consent, Mr. Moody?

11:27:09 20 MR. MOODY: Yeah, Judge.

11:27:10 21 Q. Okay, Mr. Bohrer, when Heidi Allen came up missing,
11:27:18 22 do you recall whether they set up a command center for --
11:27:22 23 for her, a search command center?

11:27:26 24 A. When I heard about her missing?

11:27:32 25 Q. No. Were you aware that they set up a command

11:27:34 1 center when Heidi Allen went missing?

11:27:38 2 A. No.

11:27:43 3 Q. Didn't you open a business right across from the
11:27:45 4 Heidi Allen Center?

11:27:48 5 A. Yes, I did.

11:27:50 6 Q. Okay, so you are aware that there was a command
11:27:52 7 center for Heidi Allen, right?

11:27:54 8 A. I thought you were talking about the day that she
11:27:59 9 turned up missing that people went to a command center or
11:28:04 10 something, but I am aware of that place across from the
11:28:10 11 post office that they set up much later.

11:28:17 12 Q. And what was the -- what was the business that you
11:28:19 13 opened up across from that command center?

11:28:22 14 A. Little Fix-it Shop.

11:28:24 15 Q. And what was that shop, what was the business?

11:28:28 16 A. Basically I specialized in fixing sentimental
11:28:36 17 products, pieces, Christmas ornaments, ceramics. A lot of
11:28:46 18 old people with sentimental items would -- that broke years
11:28:51 19 ago and -- and wanted it fixed.

11:28:55 20 Q. Where exactly -- give the Court an idea as to where
11:28:58 21 exactly this business was located.

11:28:59 22 A. Next to the post office in New Haven.

11:29:02 23 Q. All right, what street are we talking about?

11:29:04 24 A. 104 and six.

11:29:07 25 Q. And how long were you operating that business?

- 11:29:11 1 A. Less than a year, just for the summer.
- 11:29:14 2 Q. And did -- at any other time did you open up another
- 11:29:19 3 business?
- 11:29:21 4 A. Yeah. Eventually I opened up another business, yes.
- 11:29:26 5 Q. And what was the name of that business?
- 11:29:28 6 A. Medspars.
- 11:29:30 7 Q. And what type of business was Medspars?
- 11:29:32 8 A. Electronic repair and computer service and repair.
- 11:29:38 9 Q. Do you recall what year you opened up that business?
- 11:29:40 10 A. It was fall of 1996.
- 11:29:45 11 Q. And can you tell the Court the location of that
- 11:29:49 12 business?
- 11:29:50 13 A. It's on State Route 69 near the railroad tracks.
- 11:29:56 14 Q. And what -- what road runs perpendicular to Route
- 11:30:04 15 69?
- 11:30:04 16 A. Route 11.
- 11:30:05 17 Q. And what about on the other side? Well, strike
- 11:30:10 18 that.
- 11:30:10 19 A. Actually that's State Route 11.
- 11:30:12 20 Q. State Route 11.
- 11:30:13 21 A. Right.
- 11:30:14 22 Q. Okay, and what -- what other road runs behind
- 11:30:19 23 Medspars do you know?
- 11:30:21 24 A. Beley's Drive.
- 11:30:25 25 Q. Can you spell that?

- 11:30:28 1 A. Hum?
- 11:30:28 2 Q. Can you spell that?
- 11:30:28 3 A. Beley?
- 11:30:30 4 Q. Beley? For the court reporter?
- 11:30:31 5 A. B-E-L-E-Y.
- 11:30:33 6 Q. And how far was Medspars from Rice Road?
- 11:30:37 7 A. In the seventeen years I was there, I don't think I
- 11:30:43 8 was aware of Rice Road.
- 11:30:45 9 Q. Did you know Deb Vecchio?
- 11:30:47 10 A. Oh, yeah, but I didn't remember she was on Rice
- 11:30:51 11 Road.
- 11:30:51 12 Q. I didn't say she was on Rice Road.
- 11:30:54 13 A. Well --
- 11:30:57 14 Q. What does that mean? I just asked if you knew Deb
- 11:31:04 15 Vecchio.
- 11:31:04 16 A. Yeah, but I was -- I was -- the first question I
- 11:31:07 17 asked in reference to when I was at -- at Spinners, or not
- 11:31:13 18 Spinners, at Medspars.
- 11:31:19 19 Q. How -- how did you know Deb Vecchio?
- 11:31:24 20 A. I had met Debbie Vecchio I think through Tina I
- 11:31:35 21 think.
- 11:31:35 22 Q. Tina, your girlfriend?
- 11:31:37 23 A. Girlfriend. She worked at East Coast Resorts.
- 11:31:39 24 Q. Do you remember what year that was?
- 11:31:41 25 A. No.

- 11:31:42 1 Q. Do you remember what year you met Deb Vecchio?
- 11:31:45 2 A. No.
- 11:31:47 3 Q. But you know that Deb Vecchio lived on Rice Road?
- 11:31:53 4 A. I didn't remember that she lived on Rice Road.
- 11:31:55 5 Q. Had you ever been to her house?
- 11:31:58 6 A. Twice.
- 11:32:01 7 Q. Do you remember when you were -- what the time frame
- 11:32:06 8 of when you were at Deb Vecchio's house?
- 11:32:10 9 A. No, I don't.
- 11:32:11 10 Q. In the last ten years?
- 11:32:15 11 A. No. I think it was -- I don't remember.
- 11:32:22 12 Q. You don't have any recollection? Could it have been
- 11:32:25 13 twenty years ago?
- 11:32:26 14 A. It was a casual, you know, just a -- I don't even
- 11:32:36 15 remember why I -- I don't remember.
- 11:32:40 16 Q. Okay, you mentioned East Coast Travel. Did Deb
- 11:32:45 17 Vecchio work for East Coast Travel?
- 11:32:48 18 A. East Coast Resorts.
- 11:32:50 19 Q. Or East Coast Resorts, my apologies.
- 11:32:52 20 A. Yes.
- 11:32:53 21 Q. Did you hire her to work there?
- 11:32:57 22 A. No.
- 11:32:58 23 Q. Were you running --
- 11:32:59 24 A. I don't hire for East Coast Resorts.
- 11:33:01 25 Q. Well, were you contracting with them and hiring

11:33:04 1 employees?

11:33:06 2 A. I don't remember if I met her before or after, I
11:33:22 3 don't remember.

11:33:22 4 Q. Speaking of East Coast Travels, who -- who else
11:33:27 5 worked for East Coast Travel, do you recall?

11:33:29 6 THE COURT: It's East Coast Resorts.

11:33:31 7 Q. Or resorts, I'm sorry.

11:33:32 8 THE COURT: That's all right.

11:33:33 9 A. Repeat the question please.

11:33:35 10 Q. Why don't I withdraw the question and ask what is
11:33:38 11 East Coast Resorts?

11:33:39 12 A. East Coast Resorts is a timeshare campground
11:33:44 13 facility.

11:33:44 14 Q. Where is that located?

11:33:46 15 A. Parish, New York.

11:33:48 16 Q. Whereabouts in Parish?

11:33:50 17 A. One-oh -- whoops, State Route 69 and Crim Road.

11:33:56 18 Q. And what road?

11:33:58 19 A. Crim.

11:33:58 20 Q. Crim Road?

11:33:59 21 A. Yeah.

11:34:00 22 Q. Now was there some type of telemarketing that was
11:34:05 23 going on for East Coast Resorts?

11:34:07 24 A. Yes, there was.

11:34:07 25 Q. And where was that being operated out of?

11:34:10 1 MR. MOODY: Object. Can we have a time frame?

11:34:12 2 THE COURT: Yes, please, time frame.

11:34:14 3 Q. When did you start working with or for East Coast
11:34:18 4 Resorts?

11:34:18 5 A. Working for East Coast Resorts basically was
11:34:37 6 connected with my girlfriend Tina.

11:34:41 7 Q. Oh, how so?

11:34:43 8 A. She used to work for them, and she and I became a
11:34:49 9 couple, and she used to do the telemarketing for East Coast
11:34:57 10 Resorts, so I provided her with an opportunity to practice
11:35:06 11 her marketing to help Medspars' business, generate
11:35:13 12 business, and at the same time we could generate an income
11:35:18 13 providing services for East Coast Resorts, and I also
11:35:23 14 serviced their computers and developed software for them.

11:35:28 15 Q. Can you tell me what year it was that you and Tina
11:35:32 16 started working for -- with East Coast Resorts with
11:35:37 17 Medspar? What year was that when it began at its
11:35:41 18 inception?

11:35:41 19 A. I don't remember the year that I started.

11:35:43 20 Q. Was it in the late nineteen-nineties, was it in the
11:35:46 21 two-thousands?

11:35:47 22 A. It was before 2001.

11:35:52 23 Q. Now, this East Coast Resorts where you're talking
11:35:59 24 about the telemarketing aspect of it, you actually had to
11:36:02 25 hire people to do the telemarketing?

- 11:36:05 1 A. Yes. Well, Tina did.
- 11:36:08 2 Q. Tina hired the employees?
- 11:36:11 3 A. Most of the time, yeah.
- 11:36:12 4 Q. And do you recall a woman by the name of Danielle
- 11:36:19 5 Babcock?
- 11:36:19 6 A. Yes, I'm aware of Danielle.
- 11:36:22 7 Q. And how do you know Danielle?
- 11:36:23 8 A. Her and her sister came to the shop and applied for
- 11:36:31 9 a job because they -- kids spread the word that there's
- 11:36:37 10 work other than McDonald's.
- 11:36:39 11 Q. Who hired Danielle? Did you or Tina hire Danielle?
- 11:36:43 12 A. Well, I believe by that time Tina and I were broke
- 11:36:52 13 up, and I had to take over the telemarketing in her place.
- 11:37:02 14 Q. So what you're saying is you hired Danielle Babcock?
- 11:37:05 15 A. I -- I believe I did.
- 11:37:08 16 Q. Do you recall how old Danielle was when you hired
- 11:37:11 17 her to do the telemarketing for East Coast Resorts?
- 11:37:14 18 A. All the girls were sixteen.
- 11:37:17 19 Q. When you say all the girls, who else worked there?
- 11:37:21 20 A. They came and gone. There's a few that -- that
- 11:37:36 21 stuck out like Danielle and Tonya did. Amanda something or
- 11:37:42 22 other. Only because she had the most beautiful
- 11:37:50 23 handwriting. I -- I would recognize them maybe if I saw
- 11:37:54 24 them.
- 11:37:55 25 Q. When you're talking about the most beautiful

- 11:37:57 1 handwriting, were you referring to Danielle or the --
- 11:38:01 2 A. No, just one of the girls that I kind of remember.
- 11:38:07 3 Q. Okay.
- 11:38:07 4 A. And that's why, because I could read her writing.
- 11:38:10 5 Q. Okay, I see, I see.
- 11:38:11 6 A. These kids today can't read, write their names.
- 11:38:16 7 Q. Okay, so that's why you recall Danielle Babcock.
- 11:38:20 8 A. No, I recall Danielle Babcock because when they came
- 11:38:27 9 into the store with a friend that was -- I'm not sure.
- 11:38:39 10 Q. You're not sure why you remember her?
- 11:38:43 11 A. I'm not sure which friend they were with 'cause it's
- 11:38:50 12 kind of like they were referring them or something, or I
- 11:38:55 13 think there was a Tom Martin involved there. I'm going to
- 11:39:01 14 say I -- I don't remember enough to --
- 11:39:10 15 Q. How long was Danielle Babcock working for you?
- 11:39:13 16 A. I don't know. I don't remember how long.
- 11:39:21 17 Q. Did -- did you terminate her or did she quit?
- 11:39:26 18 A. I believe she quit.
- 11:39:30 19 Q. Did she tell you why she quit?
- 11:39:32 20 A. Or no, I think she was -- if I'm not mistaken, I
- 11:39:37 21 think she had a car accident and became paraplegic is what
- 11:39:45 22 I was told.
- 11:39:45 23 Q. Did she -- is it your testimony that she had a car
- 11:39:48 24 accident while she was working for you?
- 11:39:50 25 A. No, not -- I don't know. I don't -- I just -- no,

11:40:01 1 that's about the time I stopped seeing her.

11:40:02 2 Q. Well, I'm not trying to put words in your mouth, but
11:40:05 3 I'm trying to clear this up. Do you remember whether she
11:40:08 4 quit, was fired or became disabled?

11:40:12 5 A. I don't remember which one.

11:40:16 6 Q. She either quit or was disabled, is that your
11:40:21 7 testimony?

11:40:21 8 A. I don't remember the circumstances exactly why she
11:40:28 9 left.

11:40:30 10 Q. Did you ever have a -- well, strike that. Medspar
11:40:35 11 was also -- describe the interior of Medspar for me please.

11:40:40 12 A. There was an inner office area of two desks. Around
11:40:52 13 those two desks I had work bench area for servicing
11:40:58 14 computers. There was a room was divided by low office
11:41:09 15 walls, another computer repair table, and then there was
11:41:23 16 what I called the bullpen where there were a whole bunch of
11:41:29 17 tables where I had the telemarketers sit with -- doing
11:41:34 18 their smiling and dialing.

11:41:37 19 Q. Did you -- were your living quarters in that
11:41:39 20 building? Were you sleeping there?

11:41:42 21 A. Yeah, in the back section opposite side of the
11:41:48 22 building past the kitchen.

11:41:54 23 Q. Okay, so within Medspar, the building, the structure
11:41:58 24 itself.

11:41:58 25 A. It was -- it was -- I tried to maintain a separate

- 11:42:02 1 living spot.
- 11:42:03 2 Q. I see.
- 11:42:04 3 A. Yes.
- 11:42:04 4 Q. Okay, now when the girls were doing -- was it always
- 11:42:08 5 girls, females that you hired to do the telemarketing?
- 11:42:11 6 A. Um hum.
- 11:42:11 7 Q. Now when they were doing this telemarketing for East
- 11:42:17 8 Coast Resorts, did you ever have any interaction with them
- 11:42:19 9 when they were sitting there on the phones?
- 11:42:22 10 A. I usually had a -- another woman managing and
- 11:42:32 11 dealing with the girls.
- 11:42:37 12 Q. Who was the woman?
- 11:42:39 13 A. There was a Lydia Ford.
- 11:42:43 14 Q. Is she still alive?
- 11:42:46 15 A. I -- I believe so. She went on to college and I
- 11:42:53 16 haven't heard back from her.
- 11:42:55 17 Q. So did you -- did you interact with the girls at the
- 11:42:58 18 desk when you were there, when they were there doing the
- 11:43:00 19 telemarketing, they were working for you.
- 11:43:04 20 A. Well, of course I interacted with them. I wrote the
- 11:43:15 21 scripts and I would have to collect the tallies for the
- 11:43:24 22 calls that they made and how many reservations they made.
- 11:43:29 23 That's how they got paid.
- 11:43:31 24 Q. Now --
- 11:43:33 25 A. They would break for -- go on their breaks and they

11:43:41 1 had all the Schwan Food that they wanted. I took care of
11:43:46 2 them well.

11:43:46 3 Q. When is the last time you had any contact with
11:43:50 4 Danielle Babcock?

11:43:52 5 A. Before her accident.

11:43:54 6 Q. It was before her accident? You haven't had any
11:43:57 7 contact with her or conversation since?

11:43:59 8 A. No.

11:44:01 9 Q. Did you -- while she was telemarketing for you, did
11:44:06 10 you ever have any type of confrontation with Danielle
11:44:09 11 Babcock?

11:44:10 12 A. Say this again?

11:44:13 13 Q. Did you ever have a confrontation with Danielle
11:44:16 14 Babcock when she was working for you doing the
11:44:19 15 telemarketing?

11:44:19 16 A. No. She was always the quiet one of the -- of her
11:44:22 17 and her sister and far back table. I don't -- I don't -- I
11:44:28 18 had more problems with Tanya, her sister, than I did
11:44:33 19 Danielle. Danielle was --

11:44:38 20 Q. Let's --

11:44:38 21 A. I don't remember having a problem with Danielle.

11:44:41 22 Q. Let's talk about Tanya. Tanya Babcock is Danielle
11:44:47 23 Babcock's sister?

11:44:48 24 A. Twin sisters, yes.

11:44:49 25 Q. And she also worked at East Coast Travel.

11:44:54 1 A. These people did not -- these girls did not work for
11:44:58 2 East Coast Resort.

11:44:59 3 Q. They worked for you, right, they worked for you.

11:45:01 4 A. Okay. I had the contract to provide a service for
11:45:06 5 East Coast Resorts. I hired the girls. I paid the girls.

11:45:09 6 Q. I see, okay. Now did Tonya Priest ever work for
11:45:13 7 East Coast Resorts?

11:45:15 8 A. I heard through the grapevine she eventually went to
11:45:18 9 work for them after working for me.

11:45:22 10 Q. What do you mean through the grapevine?

11:45:28 11 MR. MOODY: Object. Are we talking about
11:45:30 12 Tonya Priest or Tanya Babcock?

11:45:33 13 MS. PEEBLES: I asked him if he knew Tonya
11:45:34 14 Priest.

11:45:35 15 THE COURT: They're not the same person.

11:45:37 16 MS. PEEBLES: No, they're not the same.

11:45:37 17 MR. MOODY: I just wasn't sure if it was --

11:45:39 18 MS. PEEBLES: It's not the same.

11:45:40 19 A. When did you start saying Tonya Priest?

11:45:42 20 Q. I just asked you and you said she did.

11:45:50 21 A. No, Tonya Shaw.

11:45:53 22 Q. Okay.

11:45:55 23 A. Well --

11:45:56 24 Q. Tonya. I apologize.

11:45:57 25 A. Makes a big difference.

- 11:45:58 1 Q. I understand what you're saying. Okay, Tonya Shaw.
- 11:46:02 2 Do you now know her by another name?
- 11:46:04 3 A. Know her by three names.
- 11:46:06 4 Q. Right. Well, what are they?
- 11:46:07 5 A. Tonya Wheeler, Tonya Shaw, and I didn't know about
- 11:46:12 6 Tonya Priest until all this came out in the papers.
- 11:46:18 7 Q. Okay, but we're talking about the same person though
- 11:46:20 8 just so we know.
- 11:46:21 9 A. Yes.
- 11:46:21 10 Q. And she was working at East Coast Resorts at some
- 11:46:27 11 point. Do you recall when that was?
- 11:46:27 12 A. At East Coast Resorts. I have no knowledge of her
- 11:46:33 13 actually working for East Coast Resorts.
- 11:46:36 14 Q. Well, where did she work in conjunction with you?
- 11:46:40 15 A. I'm going to have to say I don't remember.
- 11:46:47 16 Q. Well, you mentioned Tonya Shaw. Did you know Sid
- 11:46:50 17 Shaw, her husband?
- 11:46:52 18 A. Unfortunately.
- 11:46:54 19 Q. And why do you say unfortunately?
- 11:46:56 20 A. I don't know. I have nothing good to say about him.
- 11:47:04 21 Q. Why is that?
- 11:47:05 22 A. He's a mean, ornery -- he's just -- don't like him.
- 11:47:11 23 Q. When did you first meet Sid Shaw?
- 11:47:14 24 A. Back when he was a teenager.
- 11:47:17 25 Q. Okay, do you recall what year that was?

- 11:47:18 1 A. I believe it was before Heidi disappeared.
- 11:47:30 2 Q. It was before Heidi disappeared?
- 11:47:32 3 A. I believe so.
- 11:47:33 4 Q. What was the nature of your relationship with Sid
- 11:47:35 5 Shaw?
- 11:47:37 6 A. None.
- 11:47:38 7 Q. You had no contact with him?
- 11:47:40 8 A. (Shakes head.) Enough to --
- 11:47:44 9 Q. How did you --
- 11:47:45 10 A. -- say hi, that's about it.
- 11:47:47 11 Q. Okay, so why didn't you like him if you didn't have
- 11:47:50 12 any real relationship with him?
- 11:47:54 13 A. I mean you're talking about a time when he was a
- 11:48:00 14 teenager versus when he was married as an adult.
- 11:48:04 15 Q. No, I'm really not. I'm asking you what was the
- 11:48:07 16 nature of your relationship with Sid Shaw?
- 11:48:11 17 MR. MOODY: I'm going to object. Can we have
- 11:48:13 18 a time frame because apparently the witness thinks
- 11:48:15 19 there is a time frame difference.
- 11:48:16 20 THE COURT: Yeah, I guess to assist the
- 11:48:18 21 witness it might be better if you clarified did he
- 11:48:21 22 dislike him as teenager or as an adult because there
- 11:48:25 23 seems to be a confusion.
- 11:48:27 24 Q. When did you first meet Sid Shaw?
- 11:48:30 25 A. When he was a teenager.

11:48:34 1 Q. Do you remember what year that was?

11:48:35 2 A. And -- no, other than it was before Heidi

11:48:46 3 disappeared because I knew Hermie.

11:48:49 4 Q. Okay, so it had to be before.

11:48:50 5 A. Which was his uncle.

11:48:52 6 Q. Okay, so it had to be --

11:48:53 7 A. He was one of the many kids in the background at
11:48:56 8 family gatherings and stuff and I was out usually invited
11:49:00 9 and welcomed at the family gatherings and Rubin or Sid
11:49:08 10 was -- well, Tonya Wheeler was usually hanging around him
11:49:14 11 and his brother and a few other kids there in the
11:49:20 12 background.

11:49:21 13 Q. And that was before Heidi Allen went -- came up
11:49:24 14 missing.

11:49:27 15 A. Yeah.

11:49:28 16 Q. So Tonya Wheeler, so the Court is clear, is
11:49:33 17 actually -- is also now known as Tonya Priest?

11:49:37 18 A. Yes.

11:49:37 19 Q. And do you know when Tonya Priest married Sid Shaw?

11:49:43 20 A. No. It was after Heidi disappeared, quite sometime
11:49:54 21 later, and it's not like I kept track of these kids.

11:50:02 22 Eventually I learned that she was married to Sid and I
11:50:08 23 believe my response was oh, my God.

11:50:12 24 Q. All right, could you just describe to me how your
11:50:17 25 relationship evolved over the years from when Sid Shaw was

11:50:21 1 a teenager up to and including the present time?

11:50:25 2 MR. MOODY: I'm going to object. Is this a
11:50:26 3 relationship with Sid or the relationship with Tonya?

11:50:29 4 MS. PEEBLES: Sid.

11:50:29 5 THE COURT: She said Sid. Limit it to Sid.

11:50:33 6 A. I -- I had no relationship with -- with Sid or Tonya
11:50:39 7 really. They -- they were just around because I was
11:50:44 8 hanging out with Hermie.

11:50:46 9 Q. When you say they were around, how often did you see
11:50:50 10 them?

11:50:50 11 A. Not -- not frequently.

11:50:54 12 Q. Well, a couple times a week, a couple times a month,
11:50:58 13 twice a year?

11:50:59 14 A. No set standard time frame, just whenever they
11:51:04 15 happened to have been at their uncle's and I was there too.

11:51:07 16 Q. Okay, so essentially you would see him at various
11:51:10 17 family functions and gatherings because you were friends
11:51:13 18 with uncle Hermie Jordal?

11:51:15 19 A. I hung out with him more than that. We cut firewood
11:51:25 20 and that's about it.

11:51:26 21 THE COURT: For my clarification, are you
11:51:28 22 talking about Hermie or Sid?

11:51:29 23 THE WITNESS: Hermie. The uncle. I didn't
11:51:35 24 have a relationship with the kids.

11:51:36 25 Q. So the only time you really saw Sid Shaw and Tonya

11:51:39 1 Priest was when you were with Hermie or doing something in
11:51:42 2 conjunction with Hermie Jordal. I'm just trying to get
11:51:45 3 this straight.

11:51:45 4 A. Correct.

11:51:46 5 Q. And you have no recollection of Tonya Priest or
11:51:48 6 Wheeler working at East Coast Travel?

11:51:52 7 A. No.

11:51:53 8 MR. MOODY: I object. I thought it was East
11:51:57 9 Coast Resorts.

11:51:57 10 MS. PEEBLES: Resorts. I keep saying travel.
11:51:59 11 I think I want to travel actually.

11:52:01 12 THE COURT: Do you want to try East Coast
11:52:04 13 Resorts? Maybe it will help you.

11:52:17 14 Q. I want to talk to you about an individual named
11:52:22 15 Roger Breckenridge. Do you know Roger Breckenridge?

11:52:25 16 THE COURT: This might be a good time to break
11:52:28 17 about five minutes. I assume this is going to be more
11:52:29 18 than five minutes line of questioning.

11:52:31 19 MS. PEEBLES: Yes.

11:52:32 20 THE COURT: Why don't we break now till one
11:52:34 21 o'clock. Court's in recess.

11:52:43 22 (Whereupon, there was a recess.)

12:50:34 23 THE COURT: Mr. Bohrer. Would you swear him
12:59:33 24 in again please just so there's no question? Mr.

12:59:36 25 Bohrer, you're going to be sworn in again, okay?

12:59:40 1 THE CLERK: Raise your right hand, left on the
12:59:44 2 Bible.
3 M I C H A E L B O H R E R, Called as a witness, having
12:59:48 4 been duly sworn, was examined and testified as follows:
12:59:48 5 THE CLERK: Please state your name for the
12:59:55 6 record.
12:59:55 7 THE WITNESS: Michael Bohrer.
12:59:57 8 THE CLERK: Have a seat please.
01:00:01 9 THE COURT: Mr. Bohrer, I'm going to again ask
01:00:04 10 do you consent to having your testimony video and audio
01:00:07 11 taped?
01:00:07 12 THE WITNESS: No.
01:00:07 13 THE COURT: Okay. Ms. Peebles, are we going
01:00:13 14 back to the statement or are we going down the lines of
01:00:15 15 where we left off?
01:00:16 16 MS. PEEBLES: I was -- I'll come back to the
01:00:18 17 statement. At this point, Judge, I started asking him
01:00:19 18 a question about --
01:00:20 19 THE COURT: Breckenridge.
01:00:21 20 MS. PEEBLES: Yeah.
01:00:22 21 THE COURT: Don't go. I need a pad of paper,
01:00:27 22 I apologize.
01:01:39 23 (Whereupon, there was a pause in the
01:01:40 24 proceeding.)
01:01:40 25 THE COURT: Sorry about that.

01:01:42 1 BY MS. PEEBLES:

01:01:43 2 Q. Mr. Bohrer, I want to ask you some questions about
01:01:48 3 an individual named Roger Breckenridge. Do you know who
01:01:51 4 Roger Breckenridge is?

01:01:53 5 A. I do now, yes.

01:01:56 6 Q. When is the first time you met Roger Breckenridge?

01:02:01 7 A. Somebody brought an incident to my attention after
01:02:19 8 this story came out in the papers. It was at Tom Martin's
01:02:26 9 residence where his -- well, actually Tom Martin's mother's
01:02:31 10 residence, a Pat Hollenbeck (ph) reminded me that that's
01:02:38 11 when Tom Martin, or that's when Tom Martin introduced
01:02:46 12 Breckenridge to me, and at that time I acknowledged oh,
01:02:55 13 that's Breckenridge? I didn't remember until I was
01:03:01 14 reminded.

01:03:02 15 Q. What year was that?

01:03:03 16 A. I don't know.

01:03:07 17 Q. Okay, was it before 1994?

01:03:11 18 A. No.

01:03:16 19 Q. When -- when was it?

01:03:20 20 A. I don't remember.

01:03:33 21 Q. Did you recall being interviewed on March twenty-
01:03:39 22 first of 2013 with Investigator Pietroski and Investigator
01:03:45 23 Johnson?

01:03:45 24 A. Yes.

01:03:46 25 Q. And do you recall telling the investigators that

01:03:51 1 Roger Breckenridge had the eyes of a killer?

01:03:55 2 MR. MOODY: Objection, Judge. What's the

01:03:57 3 relevance of what his eyes look like?

01:04:00 4 THE COURT: I'll allow it.

01:04:03 5 A. Yeah, he's got scary eyes.

01:04:10 6 Q. I'm going to ask you some questions about Rich

01:04:15 7 Murtaugh's junkyard.

01:04:17 8 A. Okay.

01:04:18 9 Q. You're familiar with Rich Murtaugh's junkyard?

01:04:22 10 A. Yes, I am.

01:04:23 11 Q. And you scrapped vehicles at Rich Murtaugh's

01:04:27 12 junkyard?

01:04:28 13 A. Yes, I did.

01:04:29 14 Q. And you were scrapping vehicles during the time

01:04:31 15 period when Heidi Allen went missing, is that correct?

01:04:34 16 A. Yeah, I believe I -- I started scrapping before

01:04:41 17 she --

01:04:51 18 Q. And --

01:04:52 19 A. Yeah, I was, I had just started scrapping, yes.

01:04:56 20 Q. And you were scrapping at Rich Murtaugh's junkyard?

01:04:59 21 A. Primarily, yes.

01:05:01 22 Q. Now I'm going to ask you some questions about James

01:05:04 23 Steen. Do you know James Steen?

01:05:05 24 A. No, I didn't, and he doesn't -- I -- I -- I don't

01:05:12 25 know him.

01:05:13 1 Q. When you were asked by Investigator Pietroski and
01:05:17 2 Investigator Johnson back in 2013 --

01:05:20 3 A. Um hum.

01:05:21 4 Q. -- did you tell him that his name rang a bell?

01:05:24 5 A. Yes, I did.

01:05:25 6 Q. Okay, and why did that ring a bell? Why did his
01:05:28 7 name ring a bell?

01:05:29 8 A. Because the name Thumper. I've heard the name
01:05:38 9 Thumper. That's --

01:05:40 10 Q. You know that's his nickname.

01:05:43 11 A. I do now.

01:05:44 12 Q. Well, when's the first time you heard the name
01:05:46 13 Thumper?

01:05:48 14 A. From Tom Martin talking about Breckenridge and --
01:05:53 15 and Thumper. He -- he tells stories about people and these
01:06:05 16 names would typically pop up out of his mouth.

01:06:08 17 Q. What do you mean he tells stories about people?

01:06:12 18 A. He's a pathological liar. He believe -- you can
01:06:16 19 only believe about ten percent of what he says.

01:06:18 20 Q. Okay, and what makes you say that?

01:06:21 21 A. Um --

01:06:26 22 MR. MOODY: Judge, I'm going to object. Are
01:06:28 23 we asking one witness to testify about the credibility
01:06:30 24 of another witness?

01:06:31 25 THE COURT: I think if he has some knowledge

01:06:33 1 of why he -- what's the basis of his disbelief, Mr.
01:06:36 2 Martin's, it's relevant to a limited amount. Go ahead,
01:06:40 3 Mr. --

01:06:40 4 A. Tom Martin I befriended --

01:06:47 5 MR. MOODY: Judge, can we have some
01:06:49 6 clarification? Maybe I'm confused. I thought he was
01:06:52 7 talking about Steen. Is he talking about Martin
01:06:53 8 talking about Steen?

01:06:54 9 THE COURT: He's talking about credibility
01:06:55 10 of --

01:06:56 11 MS. PEEBLES: Steen.

01:06:57 12 THE COURT: No, oh, no, I think he's talking
01:06:59 13 about Mr. Martin.

01:07:00 14 MS. PEEBLES: Oh, okay.

01:07:01 15 MR. MOODY: That's where I was confused.

01:07:02 16 Q. Clear that up for me please, Mr. Bohrer.

01:07:04 17 A. For years, you know, Martin goes rambling on about
01:07:10 18 this person, that person, blah, blah, blah, blah, blah,
01:07:12 19 blah, and I don't have any visual of the person because
01:07:19 20 most of these people I have no clue who they are, but
01:07:25 21 through the years it becomes repetitious names.

01:07:30 22 Q. Okay, I just need to clear this up in my own head.
01:07:34 23 Whose credibility were you questioning when I asked you the
01:07:37 24 question before?

01:07:42 25 THE COURT: Let's be more specific. Who do

01:07:44 1 you only believe ten percent of the time?

01:07:46 2 THE WITNESS: Tom Martin.

01:07:47 3 Q. Okay, now, I was asking you about Steen. Thumper.

01:07:55 4 A. Yeah, I didn't know Thumper.

01:07:57 5 Q. So what stories was Tom Martin telling you about
01:08:01 6 Steen?

01:08:03 7 MR. MOODY: I'm going to object, Judge. We're
01:08:06 8 really getting into hearsay now.

01:08:07 9 THE COURT: Sustained.

01:08:10 10 A. Ask the question again?

01:08:11 11 THE COURT: No, you don't have to answer.

01:08:13 12 Q. I guess I need some clarification from you, Mr.
01:08:17 13 Bohrer, with respect to your knowledge about James Steen,
01:08:22 14 James Thumper Steen. Can you please tell me what contact
01:08:28 15 you've had with James Steen through the years that you've
01:08:31 16 lived in Oswego County?

01:08:33 17 A. Very few, and the few times I -- I may have, he was
01:08:46 18 probably hanging out with Tom Martin.

01:08:50 19 Q. So when you're hanging out with Tom Martin, that's
01:08:54 20 when you would see James Steen, is that a fair statement?

01:08:57 21 A. And Breckenridge, yes.

01:08:59 22 Q. Okay, so Breckenridge and Steen were together with
01:09:02 23 Tom Martin?

01:09:04 24 A. I don't think that ever occurred.

01:09:07 25 Q. Okay, tell me what occurred.

01:09:10 1 MR. MOODY: Can we have a time frame here?

01:09:12 2 THE COURT: Do you have some type of idea

01:09:13 3 when?

01:09:14 4 Q. Can you tell us when this would have been?

01:09:18 5 A. I met Tom Martin through Hermie Jordal the year
01:09:28 6 of -- it was wintertime. I don't recall the exact year.

01:09:46 7 Q. Could you give me an approximation? Was it when --

01:09:57 8 A. After -- after ninety-four.

01:10:01 9 Q. You're certain it was after ninety-four?

01:10:08 10 A. Yeah, but it was just a brief encounter, and then I
01:10:14 11 didn't meet him again for -- until probably the following
01:10:20 12 spring.

01:10:21 13 Q. Okay.

01:10:22 14 A. Because I had to go pick up a trailer for Hermie
01:10:28 15 Jordal, and the trailer was located at Tom Martin, and that
01:10:33 16 would have been the second time I met Tom Martin or, oh, it
01:10:39 17 was before ninety -- it was in ninety-four I met him.

01:10:43 18 Q. You met Roger Breckenridge in ninety-four or Steen,
01:10:47 19 I'm sorry, I'm trying to --

01:10:48 20 A. It had to have been in ninety -- the winter of
01:10:52 21 ninety-four.

01:10:54 22 MR. MOODY: Judge, I'm going to object. Who
01:10:55 23 are we talking about? We have three or four different
01:10:58 24 names we're trying to talk about.

01:10:59 25 THE COURT: Who did you meet in the winter of

01:11:01 1 1994, sir?

01:11:02 2 THE WITNESS: I -- I met Tom Martin.

01:11:09 3 Q. Okay, I'm not talking about Tom Martin. When did
01:11:12 4 you meet Roger Breckenridge? That's my question.

01:11:16 5 A. It was before the trailer, so it was sometime I
01:11:27 6 guess in ninety-four.

01:11:30 7 Q. And how about Mr. Steen?

01:11:33 8 A. Never, never did. If I did it was a very uneventful
01:11:42 9 time. I didn't care for most of Tom Martin's friends.

01:11:54 10 I -- like I said, I only interacted with Tom Martin on a
01:12:02 11 few occasions because he would show up at Hermie's.

01:12:08 12 Q. Okay, you keep wanting to bring up Tom Martin so why
01:12:11 13 don't we talk about Mr. Martin. When did you first meet
01:12:14 14 Mr. Martin?

01:12:15 15 MR. MOODY: Judge, I'm going to object. Why
01:12:17 16 are we now talking about Mr. Martin? How does this
01:12:19 17 relate to anything with this motion?

01:12:20 18 THE COURT: What's the relevance?

01:12:22 19 MS. PEEBLES: Every time I talk about Mr.
01:12:24 20 Breckenridge and try to ask a question, or Mr. Steen,
01:12:26 21 Tom Martin comes up, so I need to clear up why that is.

01:12:29 22 THE COURT: Earlier that's what --

01:12:32 23 A. I befriended Tom Martin for seventeen years.

01:12:35 24 THE COURT: Mr. Bohrer, be quiet. He answered
01:12:38 25 earlier that's where he would see Steen and

01:12:40 1 Breckenridge, at Tom Martin's. He already answered
01:12:42 2 that.

01:12:42 3 Q. Do you still see Tom Martin today?

01:12:45 4 A. Heck, no.

01:12:46 5 Q. Why not?

01:12:47 6 MR. MOODY: Judge, I object. Where is the
01:12:49 7 relevance of why he does or doesn't meet Tom Martin?

01:12:52 8 THE COURT: Sustained.

01:12:53 9 MS. PEEBLES: Well, Your Honor, I disagree.
01:12:54 10 He basically said that he didn't like any of the people
01:12:57 11 Tom Martin hung around with and I'd like to know who
01:12:59 12 those individuals are.

01:12:59 13 THE COURT: Why's it relevant if he still sees
01:13:01 14 Tom Martin?

01:13:02 15 MS. PEEBLES: Because that's when he sees
01:13:04 16 Roger Breckenridge and James Steen.

01:13:06 17 THE COURT: He already testified he hung out
01:13:07 18 with Mr. Martin a couple of times so I'm going to
01:13:10 19 sustain.

01:13:10 20 MS. PEEBLES: Well, a couple of times? Well,
01:13:12 21 I don't think that that's fair characterization of the
01:13:14 22 testimony and I want clarification on that.

01:13:16 23 THE COURT: Ask him how many times he's seen
01:13:18 24 Tom Martin.

01:13:18 25 Q. How many times have you seen Tom Martin?

01:13:20 1 A. Between what time and what time?

01:13:22 2 Q. Between the first time you met him until the present
01:13:25 3 day.

01:13:25 4 A. I met him once before in the wintertime. The spring
01:13:34 5 I met him at his house or mother's house to pick up the
01:13:40 6 trailer. I delivered the trailer, set it up with Hermie,
01:13:51 7 and the next time I seen Martin, okay, probably -- I
01:14:32 8 don't -- I don't remember. It was after -- it was after
01:14:41 9 ninety-four.

01:14:44 10 Q. So the last time you spoke with Tom Martin was after
01:14:47 11 ninety-four.

01:14:47 12 A. You got the winter of -- of ninety-three, I'm sorry,
01:14:52 13 and then the spring of ninety-four. It's fuzzy. It's so
01:15:05 14 long ago.

01:15:06 15 Q. So you haven't had any recent contact with Tom
01:15:09 16 Martin, is that what you're saying?

01:15:12 17 A. Recent? No.

01:15:15 18 Q. Now, I asked you some questions about Murtaugh's
01:15:21 19 junkyard, and you're familiar with Murtaugh's junkyard?

01:15:25 20 A. Um hum.

01:15:25 21 Q. Do you know Rich Murtaugh?

01:15:27 22 A. Yes.

01:15:27 23 Q. How do you know Rich Murtaugh?

01:15:29 24 A. Because he is the son of the owner of the Crosby
01:15:41 25 Hills Junkyard.

01:15:42 1 Q. Where is Crosby Hill Junkyard located?

01:15:46 2 A. Close to Fulton. I'm not sure if it's North Volney
01:15:52 3 or if there's a town in between there. I think it's North
01:15:58 4 Volney.

01:15:58 5 Q. Now, when you were -- well, when were you first
01:16:02 6 introduced to Rich Murtaugh, the son of Crosby Hill, the
01:16:06 7 owner of Crosby Hill?

01:16:07 8 A. Introduced to him. I don't -- he was just the son
01:16:30 9 of the guy that owns the junkyard. I mean --

01:16:33 10 Q. Did you ever hang out with him?

01:16:35 11 A. No.

01:16:37 12 Q. Ever talk to him?

01:16:38 13 A. Eventually --

01:16:41 14 Q. Okay.

01:16:41 15 A. -- we talked.

01:16:42 16 Q. When -- do you remember or do you have a time frame
01:16:45 17 of when the first time you spoke with Rich Murtaugh would
01:16:49 18 be?

01:16:49 19 A. There's a reason why I took interest in Richard
01:17:12 20 Murtaugh.

01:17:12 21 Q. Okay, why was that?

01:17:14 22 A. Because I was looking for Heidi Allen.

01:17:18 23 Q. Were you looking for Heidi Allen when? Well, let me
01:17:23 24 ask you this. I asked when the first time you had a
01:17:25 25 conversation with Rich Murtaugh was. Can you tell me when,

01:17:28 1 what date that was? Was that before or after Heidi Allen
01:17:31 2 went missing?

01:17:34 3 A. Before.

01:17:35 4 Q. Okay, so you had a conversation with Rich Murtaugh
01:17:39 5 before Heidi Allen was abducted, is that a fair statement?

01:17:44 6 A. Well, when?

01:17:44 7 Q. Well, I don't know, whatever, the first time you
01:17:46 8 talked to him.

01:17:46 9 A. I was junking. I established I was junking cars
01:17:51 10 before Heidi Allen disappeared.

01:17:53 11 Q. Right.

01:17:54 12 A. So I may have had, you know, dialogue with him
01:18:03 13 pertaining to junk cars.

01:18:11 14 Q. Before Heidi Allen went missing.

01:18:14 15 A. Yeah, but I just don't understand. I guess I'm --
01:18:31 16 he was just a guy that worked at the junkyard. I mean --

01:18:35 17 Q. Did you have any other type of relationship with
01:18:37 18 Rich Murtaugh other than talking to him when you would go
01:18:40 19 to scrap cars?

01:18:42 20 A. In ninety-four? No.

01:18:44 21 MR. MOODY: Judge, can I -- can we approach
01:18:47 22 for just a second? It's not on anything legal. I just
01:18:51 23 have a question.

01:18:51 24 THE COURT: Sure.

01:18:54 25 (Whereupon, there was an off the record

01:19:37 1 discussion at the bench.)

01:19:37 2 MS. PEEBLES: Can I just ask a question?

01:19:41 3 THE COURT: Sure. I think it was left with

01:19:44 4 Mr. Bohrer saying he was just a guy who worked at the
01:19:48 5 junkyard.

01:19:49 6 A. We had no relationship.

01:19:51 7 Q. Okay, and you never had any relationship with Rich
01:19:53 8 Murtaugh?

01:19:57 9 A. I -- the question confused me because I just
01:20:03 10 answered that --

01:20:03 11 Q. All right, I apologize, let me --

01:20:04 12 A. -- question. At the time that frame that we're
01:20:06 13 talking about, I didn't at first until somewhere along the
01:20:17 14 line I wanted to know if he had junked a blue van.

01:20:23 15 Q. Why -- why did you want to know if he junked a blue
01:20:26 16 van?

01:20:28 17 A. Because three days after Heidi turned up missing, I
01:20:37 18 knew somebody with a blue van that was no longer parked
01:20:43 19 where it was parked.

01:20:44 20 Q. Okay, who was that somebody?

01:20:46 21 A. It was at the -- Matt Duell's Sawmill.

01:20:51 22 Q. Okay, you didn't know who owned that van?

01:20:58 23 A. Yes. The girl at the video store informed me that
01:21:01 24 that was Matt Duell's van.

01:21:05 25 Q. Okay, and you -- had you approached Rich Murtaugh

01:21:11 1 about that van?

01:21:12 2 A. Rich Murtaugh, yeah, I -- I got bodacious and says
01:21:22 3 hey, did you junk Matt Duell's van, and he looked at me and
01:21:28 4 smiled, says yes, I did.

01:21:33 5 Q. Okay.

01:21:33 6 A. And then he volunteered a statement that really
01:21:39 7 surprised me, and he says no, Heidi Allen was not in the
01:21:44 8 van, and I said -- I forget what I said, or maybe I just
01:21:57 9 responded, and he responded with something pertaining to if
01:22:11 10 she was in the van, it would be impossible to hide because
01:22:19 11 it would be constantly dripping blood, and I said really.
01:22:26 12 He says, oh, yeah, he says whenever it rains or whatever,
01:22:33 13 so I kind of like wondered how he knew that, but I accepted
01:22:41 14 his expertise being a junker, you know. I don't know what
01:22:47 15 his experiences are, but I got the information I was
01:22:50 16 looking for as a validation of where the van went.

01:22:55 17 Q. Where -- where did the van go?

01:22:57 18 A. And I was specifically looking for blue van because
01:23:00 19 of the statement by the eyewitness, I believe the first two
01:23:09 20 statements that he wrote, he was indicating a blue van.

01:23:12 21 Q. Okay, I'm going to ask you a little bit about that.
01:23:16 22 Now in the box of information that you had that you turned
01:23:21 23 over to Investigator Pietroski and Johnson.

01:23:24 24 A. Um hum.

01:23:24 25 Q. You had Christopher Bivens' statements in there?

01:23:28 1 A. Yes.

01:23:29 2 Q. Do you remember that? In fact, you talked to
01:23:39 3 Investigator Pietroski and Johnson about having those
01:23:43 4 statements, do you remember that?

01:23:44 5 A. Yes.

01:23:45 6 Q. And he was for all intents and purposes the only
01:23:54 7 eyewitness that had come forward. Is that --

01:23:58 8 MR. MOODY: I'm going to object about how this
01:23:59 9 witness would know that.

01:24:00 10 THE COURT: I'm confused about who we're
01:24:02 11 talking about at this point.

01:24:04 12 MS. PEEBLES: Christopher Bivens.

01:24:05 13 THE COURT: Lay some foundation as to whether
01:24:07 14 or not he has any knowledge that he's the only one that
01:24:10 15 came forward.

01:24:10 16 Q. Well, let me hand you --

01:24:11 17 MS. PEEBLES: If I may approach, Your Honor.

01:24:13 18 Q. I'm going to hand you Defendant's Exhibit 52 and ask
01:24:17 19 if you can take a look at that document and if you
01:24:20 20 recognize that document as being in the box that they --
01:24:24 21 that you turned over.

01:24:29 22 THE COURT: Fifty-two, Ms. Peebles?

01:24:32 23 MS. PEEBLES: Yes, fifty-two.

01:24:36 24 A. Did you have all seven statements in the box still?

01:24:41 25 Q. Well, I can hand you what's also been marked as

01:24:44 1 Defendant's Exhibit 52A.

01:24:46 2 A. I made a comment to the investigator that --

01:24:49 3 THE COURT: No, no, that's not the question
01:24:50 4 before you. The question is do you recognize what's
01:24:52 5 been handed to you.

01:24:55 6 THE WITNESS: Yes.

01:24:57 7 Q. And was that the document that was in your box that
01:25:00 8 you turned over to Investigator Pietroski?

01:25:04 9 A. Yeah. I had just about all of them.

01:25:06 10 Q. Okay, I'll get to that. I want to -- you to --

01:25:10 11 MS. PEEBLES: At this time I'd like to offer
01:25:11 12 Exhibit 52, Your Honor, into evidence. It's not
01:25:14 13 offered for the truth of the matter.

01:25:16 14 THE COURT: Well, I'm confused. Is
01:25:17 15 fifty-two -- the witness spoke of seven pages and I'm
01:25:22 16 seeing two pages.

01:25:23 17 MS. PEEBLES: 52A is the other statement that
01:25:25 18 he was referring to.

01:25:26 19 THE COURT: Not this alleged statement from
01:25:27 20 Mr. Bivens.

01:25:28 21 MS. PEEBLES: Right. Mr. Bivens gave multiple
01:25:31 22 statements and he's referring to Exhibit 52.

01:25:32 23 THE COURT: So why do you want to offer
01:25:34 24 fifty-two?

01:25:36 25 MS. PEEBLES: I want to offer fifty-two in

01:25:38 1 because I want to ask him some questions about having
01:25:40 2 it in his box and he just suggested --

01:25:42 3 THE WITNESS: I need to know which version of
01:25:43 4 his statement this is.

01:25:44 5 THE COURT: Hold on, hold on.

01:25:46 6 MR. MOODY: I just didn't want him speaking
01:25:49 7 while a legal discussion was going on, that's all.

01:25:51 8 THE COURT: It's hearsay.

01:25:53 9 MS. PEEBLES: I'm not offering it for the
01:25:54 10 truth of the matter.

01:25:54 11 THE COURT: He can't testify to what Bivens
01:25:56 12 said.

01:25:57 13 MS. PEEBLES: I'm not going to ask him that.

01:25:59 14 MR. MOODY: Maybe I'm lost then. If she wants
01:26:00 15 to know why it was in the box, she can ask him why it
01:26:03 16 was in the box.

01:26:04 17 MS. PEEBLES: I have more questions. I'm not
01:26:06 18 asking him about the contents.

01:26:08 19 THE COURT: As long as she doesn't go along
01:26:09 20 the line of what did Mr. Bivens say --

21 MS. PEEBLES: Absolutely not.

01:26:11 22 THE COURT: -- it doesn't broach the issue of
01:26:13 23 hearsay. I'm not sure what it's worth, but I'll let it
01:26:17 24 in. Take it away from him.

25 (Defendant's Exhibit No. 52 was received in

01:26:18 1 evidence).

01:26:18 2 Q. Was that in your box?

01:26:20 3 A. Yes.

01:26:23 4 Q. Take that. And --

01:26:25 5 THE COURT: So you're offering it for the fact
01:26:27 6 that it was in his box?

01:26:28 7 MS. PEEBLES: Right.

01:26:29 8 THE COURT: And that's it.

01:26:29 9 Q. And also can you take a look at that document
01:26:32 10 please? Is there a fax number at the top of that document?

01:26:38 11 MR. MOODY: Judge, I'm going to object. I
01:26:41 12 don't understand what -- if she wants to talk about
01:26:42 13 what's in the box, we have the box here, I don't -- I
01:26:44 14 haven't seen the document that she's got. What does
01:26:47 15 the fax number have to do with this? The fax is purely
01:26:51 16 hearsay.

01:26:51 17 MS. PEEBLES: Your Honor, I'm trying to
01:26:52 18 establish how he acquired this document.

01:26:55 19 THE COURT: Ask him that question.

01:26:57 20 Q. Do you recall how you acquired this document?

01:26:59 21 A. I acquired all of the documents from various people.

01:27:04 22 Q. Is there a fax on the top of that document, that's
01:27:07 23 what I'm asking, is there a fax?

01:27:08 24 A. Well, it says tel on it. Yes.

01:27:12 25 Q. And there's a number associated with that?

01:27:15 1 A. What, the -- the 423P44?

01:27:21 2 Q. Well --

01:27:22 3 A. Or the phone number itself?

01:27:23 4 MR. MOODY: I'm going to object. What does
01:27:24 5 the fax number have to do with it?

01:27:26 6 THE COURT: Yeah, what's the fax number -- and
01:27:27 7 I think it's irrelevant, it's a question of relevancy.
01:27:31 8 What's the fax number have to do with it? Are you
01:27:33 9 going to try to find out who he ultimately got it from?

01:27:36 10 MS. PEEBLES: Exactly. There is a fax on it.
01:27:38 11 I want to know if it was faxed to him.

01:27:40 12 THE COURT: Can you just ask him that?

01:27:41 13 Q. Was this -- well, there's a fax number at the top.
01:27:44 14 Was this document faxed to you, Mr. Bohrer?

01:27:47 15 A. No, it was not.

01:27:48 16 Q. Is there a fax reference at the top of that
01:27:50 17 document?

01:27:51 18 MR. MOODY: Objection, Judge. What is the fax
01:27:53 19 reference, if it wasn't faxed to him, what does the fax
01:27:56 20 reference have to do with it?

01:27:56 21 THE COURT: You haven't laid any foundation if
01:27:58 22 he knows what the fax is for one thing. I'm going to
01:28:01 23 sustain the objection.

01:28:03 24 MS. PEEBLES: Well, it's in evidence.

01:28:04 25 THE COURT: It's in evidence for the fact that

01:28:06 1 it came out of his box and that's it.

01:28:07 2 MS. PEEBLES: Well, I think, Your Honor, that
01:28:09 3 I should be able to ask him where the fax came from.

01:28:11 4 THE COURT: Ask him that question.

01:28:13 5 Q. Where did the fax come from according to the
01:28:15 6 document?

01:28:18 7 MR. MOODY: Objection, Judge.

01:28:19 8 THE COURT: No, you can ask him where he got
01:28:22 9 the document from. There's been no foundation he has
01:28:24 10 any idea who that fax number is.

11 Q. Do you have any --

01:28:27 12 THE COURT: Hold it. The fax number is
01:28:28 13 hearsay. You're going beyond why you introduced it.
01:28:31 14 Sustained.

01:28:32 15 MS. PEEBLES: Again, I would disagree.

01:28:33 16 THE COURT: I understand.

01:28:34 17 Q. All right, Mr. Bohrer, do you have any recollection
01:28:38 18 of where you acquired that statement?

01:28:42 19 A. It could be from any one of several people. I did
01:28:46 20 not write on these copies which one came from what person.

01:28:54 21 Q. All right. Now, Mr. Bohrer, I'm going to hand you
01:28:56 22 what's been marked as Exhibit 52A and ask if you recognize
01:29:01 23 these documents as being in your box.

01:29:07 24 THE COURT: This is another statement, Ms.
01:29:08 25 Peebles?

01:29:09 1 MS. PEEBLES: It's a variation of Christopher
01:29:12 2 Bivens' statement.

01:29:13 3 THE COURT: Okay.

01:29:18 4 A. They're official statements, and they're pertaining
01:29:21 5 to the subject at hand.

01:29:25 6 Q. Okay, and the subject at hand --

01:29:27 7 A. And I established I had every single one at one time
01:29:35 8 so.

01:29:39 9 Q. Did you view that as a -- did you view these
01:29:41 10 documents, fifty-two and 52A as important documents?

01:29:45 11 MR. MOODY: I'm going to object, Judge. What
01:29:47 12 does it matter his view of these statements?

01:29:49 13 THE COURT: I'm going to sustain.

01:29:50 14 MS. PEEBLES: They're his documents.

01:29:51 15 THE COURT: So who cares, he's not a police
01:29:53 16 investigator, he thinks they're important or not?

01:29:56 17 MS. PEEBLES: I disagree. He labeled himself
01:29:58 18 an investigator and I'm getting to that.

01:30:00 19 THE COURT: Sustained.

01:30:00 20 A. I was only concerned about --

01:30:02 21 THE COURT: Stop, stop. Sustained. With
01:30:06 22 regard to the question regarding the importance is not
01:30:09 23 relevant to whether or not Mr. Bohrer believes they're
01:30:12 24 important.

01:30:12 25 Q. Why did you have these documents, Mr. Bohrer?

01:30:14 1 A. Because there were so many changes in the eyewitness
01:30:23 2 testimony. It went from blue to white van.

01:30:29 3 Q. And did you think that was a significant fact?

01:30:33 4 MR. MOODY: I'm going to object to what --

01:30:37 5 THE COURT: If you want to ask him why, why
01:30:39 6 does an important -- nothing against Mr. Bohrer, don't
01:30:42 7 take it wrong, Mr. Bohrer, whether or not he thinks
01:30:44 8 it's important? Does he work for one of the Sheriff's
01:30:46 9 Department, the FBI, the State Troopers?

01:30:48 10 MS. PEEBLES: Well --

01:30:50 11 THE COURT: If you want to -- if he's a
01:30:53 12 private investigator, get to that right now, then you
01:30:55 13 might be able to go back to these questions.

01:30:56 14 Q. Mr. Bohrer, did you consider yourself to be an
01:30:58 15 investigator? Did you consider yourself to be Investigator
01:31:01 16 A in this investigation?

01:31:04 17 A. A investigator.

01:31:08 18 Q. Mr. Bohrer, I'm going to hand you --

01:31:41 19 THE COURT: Can you give me fifty-two and take
01:31:43 20 back 52A then?

01:31:44 21 MS. PEEBLES: Yes.

01:31:45 22 THE COURT: Okay, thank you.

01:31:48 23 MS. PEEBLES: I took that 52A.

01:31:49 24 THE COURT: Oh, you did.

01:31:50 25 MS. PEEBLES: Yeah.

01:31:51 1 THE COURT: Can I have fifty-two then?

01:31:53 2 MS. PEEBLES: Yes.

01:31:54 3 THE COURT: Or just on the -- thank you.

01:32:37 4 Q. Mr. Bohrer, I'm going to hand you what's been marked
01:32:40 5 as Defendant's Exhibit 56 and ask if you can identify that
01:32:44 6 document for me.

01:32:45 7 A. Yes.

01:32:47 8 Q. What is that document?

01:32:49 9 A. This was a document that I wrote to express my
01:33:09 10 outrage as to missing Heidi Allen and how it was being
01:33:20 11 handled.

01:33:24 12 Q. Can you flip to the last page of that document?
01:33:28 13 When did you create that document?

01:33:36 14 MR. MOODY: Judge, is this document in
01:33:38 15 evidence now?

01:33:38 16 MS. PEEBLES: I haven't offered it yet.

01:33:40 17 THE COURT: She hasn't offered it. It's a
01:33:42 18 legitimate question.

01:33:44 19 A. Well, I don't know why the date isn't on the front
01:33:47 20 page where the title is because I would have. I don't know
01:33:53 21 why there isn't one on there.

01:33:55 22 Q. Are you saying that that didn't come out of your box
01:33:57 23 that you gave over to Investigator Pietroski?

01:34:05 24 A. Well, no, I'm -- I'm recognizing my writing.

01:34:08 25 Q. Okay, okay.

01:34:10 1 MS. PEEBLES: Your Honor, at this time I'd
01:34:11 2 like to offer exhibit --

01:34:15 3 THE COURT: For what --

01:34:16 4 MR. MOODY: Can I see it?

01:34:17 5 THE COURT: Yeah, sure. Can we just confirm
01:34:21 6 there's no date on it.

01:35:00 7 MR. MOODY: I have no objection.

01:35:01 8 THE COURT: Excuse me?

01:35:02 9 MR. MOODY: I have no objection.

01:35:03 10 THE COURT: Fifty-six.

01:35:04 11 MR. MOODY: Is there a limited purpose on
01:35:07 12 this? Is this just to prove he had the box or --

01:35:09 13 MS. PEEBLES: No.

01:35:09 14 THE COURT: This is for introduction.

01:35:11 15 MS. PEEBLES: If it's in evidence, I'm going
01:35:13 16 to ask him to read parts of it, it's in evidence. He
01:35:17 17 wrote it. He wrote it.

01:35:17 18 THE COURT: That's part of the problem as to
01:35:18 19 why he is going to -- you're going to ask him to read
01:35:20 20 it in what capacity, as a citizen?

01:35:23 21 MS. PEEBLES: Well, let's ask him.

01:35:26 22 THE WITNESS: I -- at the time that I wrote --

01:35:28 23 THE COURT: There's no question. There's no
01:35:29 24 question, sir.

01:35:30 25 Q. I'm going to hand you back what's been marked as

01:35:32 1 Exhibit 56.

01:35:33 2 MR. MOODY: Judge, if it's for the purpose
01:35:35 3 that he had it in his box, I have no objection. If
01:35:37 4 we're going to get into whatever is in the statement,
01:35:39 5 then I'm not sure how this isn't hearsay.

01:35:42 6 MS. PEEBLES: He's here to testify about what
01:35:44 7 he wrote. He just admitted that he crafted that
01:35:47 8 document.

01:35:47 9 THE COURT: Still an out of court statement,
01:35:50 10 Ms. Peebles.

01:35:50 11 MS. PEEBLES: He's here, Your Honor, it's
01:35:52 12 admissible.

01:35:52 13 THE COURT: He can testify to what he said,
01:35:54 14 not read it.

01:35:54 15 MS. PEEBLES: He just agreed to let it in.

01:35:56 16 MR. MOODY: Because I thought it was for the
01:35:58 17 purpose it was in the box. I'm sorry that I
01:35:59 18 misunderstood, but we wouldn't --

01:36:01 19 THE COURT: Let's back up. Let's back up.
01:36:03 20 Stop. You're moving it in.

01:36:05 21 MS. PEEBLES: I'm moving it in.

01:36:05 22 THE COURT: We're beyond the issue of whether
01:36:07 23 or not it came out of Mr. Bohrer's --

01:36:09 24 MS. PEEBLES: I want to question him about
01:36:10 25 what he wrote in there. I think I'm entitled to it.

01:36:12 1 THE COURT: And your objection is it's
01:36:14 2 hearsay.

01:36:15 3 MR. MOODY: Essentially, yes.

01:36:16 4 THE COURT: I'll let it in. I'm not sure what
01:36:20 5 weight I'm going to give it. It's written by somebody
01:36:21 6 who is not an investigator.

7 (Defendant's Exhibit No. 56 was received in
01:36:23 8 evidence).

01:36:23 9 Q. All right, flip to the last page of that document.

01:36:29 10 Did you refer to yourself on that page as Investigator A?

01:36:33 11 A. Yes, I did.

01:36:34 12 Q. Okay, and you wrote that, right?

01:36:36 13 A. Yes.

01:36:36 14 Q. And who is Investigator B?

01:36:38 15 A. Jim Beningfield (ph).

01:36:40 16 Q. Who is Jim Beningfield?

01:36:43 17 A. He was the investigator that the Allen family had
01:36:48 18 hired to investigate into the disappearance of Heidi.

01:36:54 19 Q. Did you --

01:36:55 20 A. From Texas.

01:36:56 21 Q. Did you tell people that you were an investigator on
01:36:59 22 behalf of the Allen family?

01:37:01 23 A. No, I never did.

01:37:02 24 Q. Who did you tell you were investigating the Heidi
01:37:08 25 Allen case?

01:37:10 1 A. I lived my life publically. I had no problem saying
01:37:25 2 I'm looking into this. You got a sign in town saying where
01:37:30 3 is Heidi, and I have to answer that with I don't know, but
01:37:34 4 I'll find out, six times a day.

01:37:37 5 Q. Six times a day?

01:37:38 6 A. Pick a number. How many times do I go past the
01:37:43 7 sign? I'm traveling with junk cars and metal.

01:37:47 8 Q. Do you still think about it six times a day?

01:37:50 9 A. Heck, no.

01:37:52 10 Q. When's the last time you thought about it six times
01:37:54 11 a day?

01:37:56 12 MR. MOODY: Judge, I'm going to object. What
01:37:57 13 does this have to do --

01:37:58 14 THE COURT: I'm going to allow it. Again,
01:38:00 15 it's a weight issue.

01:38:01 16 A. When -- when they changed the sign.

01:38:05 17 Q. Do you remember when that was?

01:38:07 18 A. It was after I had an anxiety episode and the doctor
01:38:18 19 asked me why I was so much into looking into what happened
01:38:27 20 to Heidi.

01:38:31 21 Q. When was the anxiety episode?

01:38:34 22 A. And --

01:38:37 23 THE COURT: Stop, Mr. Bohrer. Do you need
01:38:39 24 time to compose yourself, sir? Do you need five
01:38:42 25 minutes?

01:38:42 1 THE WITNESS: No.

01:38:44 2 THE COURT: Take some time.

01:38:46 3 A. And I told him it's because of that damn sign.

01:38:56 4 Q. That sign really bothered you didn't it?

01:38:59 5 A. I always had to answer it. I don't know. But I'll
01:39:03 6 find out. It's just I'm a researcher from IBM. They ask
01:39:08 7 me a question that I don't know but I'll find out. It's
01:39:11 8 just the way I -- my brain works.

01:39:13 9 Q. You're getting pretty emotional. Why are you so
01:39:17 10 upset?

01:39:18 11 MR. MOODY: Objection, Judge.

01:39:19 12 THE COURT: Excuse me?

01:39:20 13 MR. MOODY: The gentleman's emotional. Do we
01:39:23 14 have to rehash why?

01:39:24 15 THE COURT: I'm going to sustain it. Do you
01:39:26 16 need time, sir?

01:39:30 17 THE WITNESS: No.

01:39:30 18 THE COURT: Are you sure?

01:39:31 19 THE WITNESS: Yep.

01:39:35 20 Q. So when you decided to become Investigator A, you
01:39:46 21 ever consult with a psychic?

01:39:50 22 A. Yeah. A self-proclaimed phychic approached me.

01:39:59 23 Q. And who was that?

01:40:00 24 A. Trudy Lortie.

01:40:02 25 Q. And who is she related to?

01:40:08 1 A. I guess the Lortie family?

01:40:13 2 Q. Very good, Mr. Bohrer. She related to the Halls at

01:40:18 3 all do you know? Is she married to any of the Halls?

01:40:21 4 A. I don't remember. I thought Lortie is her married

01:40:29 5 name.

01:40:31 6 Q. Okay, do you know what her maiden name is?

01:40:33 7 A. I have to assume now it was Hall?

01:40:36 8 Q. Well, I don't want you to assume anything. You

01:40:38 9 either know or your don't.

01:40:39 10 A. I -- I didn't until now or I didn't remember until

01:40:43 11 now. I'm sure I heard of it.

01:40:45 12 Q. And you -- you consulted with her for what

01:40:53 13 particular reason?

01:40:54 14 A. She was interested in the Heidi Allen case. She had

01:41:02 15 visions. She had an idea, you know. She had a story and

01:41:09 16 I'm --

01:41:10 17 Q. Mr. Bohrer, I'm going to --

01:41:11 18 A. -- listening to stories.

01:41:12 19 Q. I'm going to approach and hand you what's been

01:41:14 20 marked as Defendant's Exhibit 53. Do you recognize that

01:41:25 21 document?

01:41:26 22 A. It's my handwriting.

01:41:32 23 Q. It is your handwriting isn't it?

01:41:34 24 A. Yeah. These are just notes to try to sort things

01:41:41 25 out.

01:41:42 1 MS. PEEBLES: All right, at this time, Your
01:41:43 2 Honor, I'd like to offer into evidence exhibit --
01:41:47 3 what's the number on there?

01:41:48 4 THE COURT: Fifty-three?

01:41:49 5 MS. PEEBLES: Fifty-three.

01:41:53 6 MR. MOODY: For what purpose? I guess I
01:41:54 7 object to the relevance.

01:41:56 8 MS. PEEBLES: He just explained they were
01:41:58 9 handwritten notes that he kept about the Heidi Allen
01:42:01 10 case. I think it's relevant.

01:42:02 11 THE COURT: How?

01:42:04 12 MS. PEEBLES: How?

01:42:05 13 THE COURT: He's not an investigator. He's a
01:42:07 14 gentleman who has a concern.

01:42:10 15 MS. PEEBLES: Judge, I think it's relevant.
01:42:12 16 I'm offering it and --

01:42:13 17 THE COURT: How?

01:42:14 18 MS. PEEBLES: Because he has notes in there
01:42:16 19 from a psychic about details surrounding Heidi Allen
01:42:19 20 and her disappearance.

01:42:20 21 THE COURT: From his own testimony, that's a
01:42:24 22 self-proclaimed psychic.

01:42:24 23 MS. PEEBLES: He wrote those notes. I want to
01:42:27 24 ask him why. How is that not relevant? It goes to the
01:42:29 25 heart of the matter.

01:42:30 1 THE COURT: It does?

01:42:30 2 MS. PEEBLES: Yes.

01:42:31 3 THE COURT: How?

01:42:31 4 MS. PEEBLES: How? We're here because we're

01:42:33 5 accusing them of being involved in Heidi Allen --

01:42:35 6 THE COURT: You are, nobody else is.

01:42:38 7 MS. PEEBLES: Well, Judge, he's here, I called

01:42:39 8 him as a witness, I'm asking him questions, he's

01:42:41 9 admitting it.

01:42:41 10 THE COURT: Admitting what? That he wrote the

01:42:45 11 notes?

01:42:45 12 MS. PEEBLES: Yes.

01:42:45 13 THE COURT: I'm sustaining. It's not

01:42:56 14 relevant.

01:43:02 15 MS. PEEBLES: Your Honor, we're contending

01:43:04 16 that the notes explain exactly what happened with Heidi

01:43:07 17 Allen, and we think it's relevant and we're moving it

01:43:10 18 into evidence.

01:43:11 19 THE COURT: You're asking to move it into

01:43:12 20 evidence.

01:43:12 21 MS. PEEBLES: Yes.

01:43:13 22 MR. MOODY: Objection. Now it's hearsay. Now

01:43:15 23 they're offering it exactly for the truth of the matter

01:43:18 24 asserted.

01:43:18 25 THE COURT: Sustained.

01:43:24 1 MR. MOODY: From the psychic.

01:43:25 2 Q. Those are your notes though, Mr. Bohrer, right?

01:43:28 3 MR. MOODY: Objection, Judge. It's not in

01:43:30 4 evidence.

01:43:30 5 THE COURT: He can identify the notes. Answer

01:43:33 6 the question, sir.

01:43:35 7 A. What is the question please?

01:43:36 8 THE COURT: Are those your notes?

01:43:38 9 THE WITNESS: Yes, they are.

01:43:39 10 Q. All those pages are your notes?

01:43:42 11 A. There's a couple of lines here I'm not recognizing

01:44:59 12 as my handwriting.

01:45:00 13 THE COURT: What page?

01:45:03 14 THE WITNESS: Top of page -- do I count both

01:45:07 15 sides of the page?

01:45:08 16 THE COURT: Is there handwriting on both

01:45:10 17 sides?

01:45:10 18 THE WITNESS: No, there isn't.

01:45:11 19 THE COURT: Count the pages that has writing

01:45:14 20 on it.

01:45:14 21 THE WITNESS: Only the last page has both

01:45:18 22 sides.

01:45:18 23 THE COURT: Okay.

01:45:19 24 THE WITNESS: So it would go one, two, the top

01:45:23 25 page, parenthesis, I would need to look at the original

01:45:29 1 documents. And second page I would have to look at the
01:45:38 2 original documents.

01:45:42 3 THE COURT: Okay.

01:45:42 4 THE WITNESS: The rest of it looks like
01:45:45 5 generally my handwriting because sometimes these things
01:45:52 6 are done separate days or different pen.

01:45:56 7 THE COURT: Okay.

01:45:57 8 THE WITNESS: I have to look at the original
01:45:58 9 document to concisely answer that for you.

01:46:03 10 Q. So what did you take away after you met with the
01:46:06 11 psychic, what was your -- what did you take away from that
01:46:11 12 conversation with the psychic?

01:46:12 13 A. What do you mean take away?

01:46:13 14 Q. Well, what was in your head after you talked with
01:46:15 15 the psychic?

01:46:16 16 A. Well, she was saying stuff that caught my attention,
01:46:28 17 information that I didn't think she would know being
01:46:40 18 somebody not directly involved in looking into Heidi's
01:46:49 19 disappearance in the detail that I was.

01:46:52 20 Q. Okay, so what -- what were some of the --

01:46:54 21 A. She caught my attention.

01:46:55 22 Q. Okay, how did she catch your attention? What --
01:46:58 23 what did you take away? Tell me what you you learned.

01:47:03 24 A. Well, at the time that I met her, I personally came
01:47:09 25 to the conclusion that these boys had nothing to do --

01:47:16 1 THE COURT: That's not responsive to the
01:47:17 2 question. Ask the question again please, Ms. Peebles.
01:47:21 3 Q. What -- what did you take away from the consultation
01:47:27 4 with the psychic?
01:47:31 5 A. She had a vision of what she believed happened.
01:47:43 6 Q. What was the vision?
01:47:44 7 MR. MOODY: I'm going to object, Judge.
01:47:46 8 Hearsay.
01:47:46 9 THE COURT: Sustained. You can't answer the
01:47:52 10 question.
01:47:52 11 Q. What was your -- what was your understanding after
01:47:54 12 you met with her?
01:47:56 13 A. Say that again?
01:47:57 14 Q. What was your understanding after you met with her?
01:48:03 15 MR. MOODY: I'm going to object.
01:48:05 16 Understanding about what?
01:48:06 17 THE WITNESS: There was possible credence.
01:48:07 18 THE COURT: Hold on. What was your objection,
01:48:08 19 Mr. Moody?
01:48:09 20 MR. MOODY: Understanding of what?
01:48:11 21 THE COURT: Could you clarify that, Ms.
01:48:13 22 Peebles, please?
01:48:14 23 Q. After you consulted with Trudy Lortie and you said
01:48:17 24 that she had information that she couldn't have known,
01:48:20 25 could you say what your understanding of that information

01:48:23 1 was, just your understanding, not what she said, but what
01:48:27 2 you took away from that conversation.

01:48:31 3 A. I -- I guess I'm not understanding the terminology
01:48:38 4 "took away."

01:48:40 5 Q. What was in your mind after you had that
01:48:42 6 conversation with the psychic?

01:48:44 7 A. That she might have some credence into what might
01:48:51 8 have happened.

01:48:52 9 Q. And did you -- did you jot those notes down, what
01:48:56 10 she said?

01:48:58 11 A. Apparently. I -- I haven't read those pages.
01:49:10 12 She -- so many documents got stolen.

01:49:18 13 Q. What -- what do you mean by that? What documents
01:49:22 14 got stolen?

01:49:23 15 A. I had two sets, a master copy and the dupes. What
01:49:32 16 the investigators have are the duplicates that would make
01:49:39 17 up a second full set, but it was incomplete of everything
01:49:47 18 that I had at that point before the documents were stolen.

01:49:51 19 Q. Can you give me a time frame of about when the
01:49:56 20 documents were stolen?

01:49:57 21 A. No, I can't.

01:50:12 22 Q. Was it recently?

01:50:16 23 A. Today's time? Recently? Or --

01:50:21 24 Q. Well --

01:50:22 25 A. -- recently from when Heidi disappeared?

01:50:25 1 Q. From, well, recently from today I'm suggesting.

01:50:28 2 MR. MOODY: Can we have a time frame, weeks,
01:50:31 3 months, years?

01:50:32 4 MS. PEEBLES: That's what I'm asking.

01:50:33 5 THE COURT: She's trying to get down to that.

01:50:37 6 A. I mean I have been carrying these documents for
01:50:45 7 twenty years.

01:50:46 8 Q. I know that.

01:50:48 9 A. So I -- I guess I forgotten what question I'm
01:50:53 10 supposed to be answering.

01:50:54 11 Q. When -- when some of your documents were stolen,
01:50:58 12 you were calling some dupes and some originals. I was
01:51:04 13 questioning you as to time frame when did those documents
01:51:05 14 get stolen?

01:51:08 15 A. The complete set.

01:51:09 16 Q. The complete set.

01:51:11 17 A. It was before Gary's trial.

01:51:22 18 Q. Somebody stole your documents?

01:51:25 19 A. Yes.

01:51:27 20 Q. Did you ever find out who?

01:51:28 21 A. No. They stole the briefcase containing everything.

01:51:32 22 Q. From -- where was the briefcase when you realized it
01:51:37 23 had been stolen?

01:51:38 24 A. I was living at Spinners, and I usually would have
01:51:45 25 dinner or lunch, and I always had the briefcase with me,

01:51:52 1 and one night I was sitting on the stool, there were a
01:51:59 2 couple guys to the left of me, and I thought I had an
01:52:07 3 epiphany of whoa, I think I really starting to see
01:52:14 4 something form here.

01:52:16 5 Q. Yeah, what was that?

01:52:18 6 A. Gary didn't do it.

01:52:23 7 Q. When did you have that epiphany?

01:52:26 8 A. Well, that's the documents that are in the set.

01:52:32 9 Q. The set that was stolen?

01:52:34 10 A. Yeah.

01:52:35 11 Q. Okay.

01:52:36 12 A. The stuff that got stolen had timelines, detailed
01:52:42 13 timelines of people that were present at the convenience
01:52:50 14 store that Sunday.

01:52:52 15 Q. And you created those timelines?

01:52:55 16 A. Based on the statements, because the statements
01:53:00 17 contained times when people left their home, when they got
01:53:09 18 to A&W, not A&W, D&W, and I believe that there was a
01:53:19 19 pattern that was amazing.

01:53:22 20 Q. What was the pattern that you thought was amazing?

01:53:26 21 A. They all had twenty minutes unaccounted for.

01:53:29 22 Q. Who did?

01:53:31 23 A. The individuals on the list.

01:53:35 24 Q. Do you remember who the individuals were that were
01:53:38 25 on the list?

01:53:40 1 A. They were based on the statements that people came
01:53:42 2 forward with that were there that Sunday morning when they
01:53:51 3 discovered that there was no cashier at the register, so I
01:53:59 4 decided well, let's see how long it takes to go from here
01:54:03 5 to there. The only one I couldn't get an accurate timeline
01:54:11 6 was Deputy Curtis because technically he wasn't officially
01:54:21 7 clocked in yet.

01:54:23 8 Q. Well, how did you know that?

01:54:25 9 A. You have to look at Pat Granger's statement. She's
01:54:33 10 the one that introduced information about Deputy Curtis's
01:54:38 11 events. Before any officer had arrived, she announced that
01:54:50 12 there's a girl missing here and -- am I supposed to tell
01:55:01 13 you what was on her statement?

01:55:03 14 Q. I'm not asking you what was on her statement, no.
01:55:07 15 So you create this timeline and you make these notes. I
01:55:12 16 asked you before about whether or not you knew where the
01:55:15 17 schedule was for the employees at the D&W. Do you remember
01:55:18 18 when I asked you that?

01:55:20 19 A. Yes.

01:55:58 20 THE COURT: Is this a new exhibit to be
01:56:00 21 marked?

01:56:00 22 MS. PEEBLES: This is going to be new that I'm
01:56:01 23 marking.

01:56:02 24 THE COURT: You're on one-twenty-nine right
01:56:04 25 now.

01:56:04 1 MS. PEEBLES: So this will be one-twenty-nine.

01:56:06 2 THE COURT: That would be one-thirty. Excuse

01:56:08 3 me, one-thirty.

4 (Defendant's Exhibit No. 130 was marked for
01:56:10 5 identification).

01:56:10 6 Q. Mr. Bohrer, I'm going to hand you what's been marked
01:56:13 7 as Defendant's Exhibit 130 and ask if you can identify that
01:56:16 8 document.

01:56:18 9 A. Oh. This is the first one I wrote.

01:56:32 10 Q. Is there a signature on there?

01:56:36 11 A. Printed by a printer signature. Oh. Oh. Joyce
01:56:46 12 Babbitt. Yeah. She liked me.

01:56:51 13 Q. Who -- who is that?

01:56:53 14 A. She was my neighbor across the -- where I lived at
01:57:00 15 the ranch home. I'm sorry, but she passed away.

01:57:07 16 Q. Do you need to take a minute, Mr. Bohrer?

01:57:12 17 THE COURT: Why --

01:57:13 18 A. Yeah.

01:57:13 19 THE COURT: Why don't we take a ten-minute
01:57:15 20 recess. Court's in recess.

01:57:28 21 (Whereupon, there was a recess.)

01:59:10 22 THE COURT: Mr. Bohrer, consider the fact that
02:07:23 23 you're still under oath, sir, okay?

02:07:24 24 THE WITNESS: Yes.

02:07:25 25 THE COURT: We're on, if I'm right, Defense

02:07:27 1 Exhibit 130, correct?

02:07:29 2 MS. PEEBLES: Yes, that's correct.

02:07:30 3 Q. And Mr. Bohrer, I was just asking you some questions
02:07:32 4 about Defense Exhibit 130.

02:07:35 5 THE COURT: Hold on. We're not live. I
02:07:38 6 apologize.

02:07:43 7 Q. Mr. Bohrer, I was just asking you some questions
02:07:46 8 about Defense Exhibit 130 that I handed you the document?

02:07:49 9 A. Yes.

02:07:50 10 Q. And is that a signed document?

02:07:54 11 A. There is a signature, yes.

02:07:57 12 Q. Whose signature was that?

02:07:59 13 A. Joyce Babbitt.

02:08:01 14 Q. And is there a date on that document?

02:08:05 15 A. Yes, there is.

02:08:05 16 Q. And did she type that document for you?

02:08:08 17 A. No, she didn't.

02:08:10 18 Q. How did you get your hands on that document?

02:08:13 19 A. I printed it from my -- my printer.

02:08:18 20 Q. Okay, where was that document created?

02:08:23 21 A. From my computer to my printer across the street
02:08:28 22 from where this woman lived.

02:08:32 23 Q. Okay, and how did you print -- where was that
02:08:36 24 document when you printed it? Was it on your computer or
02:08:39 25 somebody else's computer that was e-mailed to you? How did

02:08:42 1 you get -- how did you acquire that to print?

02:08:44 2 A. It would have -- it would have been my printer.

02:08:54 3 Q. Was that saved onto your computer, I guess that's my
02:08:59 4 question.

02:09:00 5 A. Yeah, it would have been.

02:09:09 6 Q. And that was in your box of materials relating to
02:09:12 7 the Heidi Allen case?

02:09:15 8 A. I don't understand the question.

02:09:17 9 Q. Was that document in the box that you turned over to
02:09:22 10 Investigator Pietroski and Investigator Johnson on March
02:09:25 11 twenty-first of 2013?

02:09:28 12 A. Yes. Oh, no. This couldn't have been.

02:09:33 13 Q. Couldn't have been? So you're denying that that was
02:09:38 14 in the box?

02:09:40 15 A. If -- if Joyce's name on it, then this would have
02:09:49 16 been her copy.

02:09:52 17 Q. Well, how did Investigator Pietroski and
02:09:54 18 Investigator Johnson get ahold of that document?

02:09:57 19 MR. MOODY: Objection, Judge, foundation.

02:09:59 20 THE COURT: I'm going to sustain unless you
02:10:00 21 can lay some foundation how he has knowledge they got a
02:10:03 22 hold of it.

02:10:04 23 Q. Well, Mr. Bohrer, you gave your box of Heidi Allen
02:10:10 24 material to Investigator Johnson and Pietroski on March
02:10:14 25 twenty-first of 2013?

02:10:20 1 A. Yeah.

02:10:22 2 Q. And that document was in that box?

02:10:27 3 A. I didn't do an inventory before I gave it to them.

02:10:32 4 I just grabbed everything and gave it to 'em. I didn't
02:10:36 5 sort through it.

02:10:37 6 Q. But you're acknowledging that you printed that
02:10:40 7 document off from your computer?

02:10:43 8 A. Is this the original print? Or a copy.

02:10:49 9 Q. You tell me.

02:10:52 10 A. My eyes are bad. I can't tell. It looks like a
02:11:07 11 photocopy.

02:11:09 12 Q. Does that look like a photocopy of a document that
02:11:12 13 you had in your box that you gave to Investigator Pietroski
02:11:16 14 and Investigator Johnson?

02:11:20 15 A. I don't understand the question.

02:11:22 16 Q. Does that look like a photocopy of a document that
02:11:27 17 was in the box of items that you gave to Investigator
02:11:32 18 Pietroski and Investigator Johnson on March twenty-first of
02:11:35 19 2013?

02:11:40 20 A. I -- I can't answer that question. I -- I don't
02:11:50 21 know if this particular document that I'm holding in my
02:11:53 22 hand was actually in the box. I'm assuming it was.

02:12:00 23 Q. And you're assuming it was because?

02:12:02 24 MR. MOODY: Judge, I'm going to object. We
02:12:05 25 have the box here if he wants to answer that question.

02:12:07 1 MS. PEEBLES: Fine, I'll take the box.

02:12:09 2 MR. MOODY: But then my question is what is
02:12:11 3 the -- I mean are we just trying to determine --

02:12:14 4 THE COURT: I don't know, even know what it is
02:12:16 5 at this point.

02:12:17 6 MR. MOODY: The other question is what's the
02:12:18 7 relevance of it?

02:12:21 8 Q. Mr. Bohrer, do you recognize that document?

02:12:23 9 MR. MOODY: I have an objection. What is the
02:12:25 10 relevance of this document?

02:12:26 11 THE COURT: Let's see if he can identify it
02:12:30 12 first.

02:12:33 13 A. I recognize this as my -- my literature.

02:12:44 14 Q. Okay.

02:12:47 15 A. However, it looks like it's a carbon copy.

02:12:49 16 Q. Okay.

02:12:50 17 A. Or a photocopy.

02:12:52 18 Q. It's a photocopy.

02:12:55 19 MS. PEEBLES: Your Honor, at this time I'd
02:12:55 20 like to offer Defense Exhibit 130.

02:12:58 21 MR. MOODY: I'm going to object. I haven't
02:13:00 22 seen the document and I'm going to -- I still don't
02:13:02 23 know the relevance of it is.

02:13:04 24 MS. PEEBLES: I will show you the document.

02:13:06 25 THE COURT: Show it to Mr. Moody, the document

02:13:10 1 please.

02:13:21 2 MR. MOODY: Judge, I object to the relevance.

02:13:22 3 I don't see what the relevance of this is, and hearsay.

02:13:26 4 He's established -- he's not sure I guess, he hasn't

02:13:29 5 established it was in his box. I don't see the

02:13:32 6 relevance.

02:13:33 7 MS. PEEBLES: It's his.

02:13:34 8 THE COURT: Go ahead.

02:13:35 9 MS. PEEBLES: It's his literature he said.

02:13:37 10 THE COURT: I'm going to sustain based on

02:13:39 11 hearsay.

02:13:40 12 Q. You wrote this document though, right?

02:13:42 13 THE COURT: It does not fit into any exception
02:13:45 14 of hearsay.

02:13:45 15 Q. This is your document?

02:13:46 16 MR. MOODY: Objection. It's still hearsay.

02:13:48 17 MS. PEEBLES: I'm not asking him what's in the
02:13:50 18 document.

02:13:53 19 THE COURT: Sit down. Answer the question.

02:14:00 20 A. I don't know if she's meaning is this the document
02:14:05 21 or is this a copy of the document that's been --

02:14:11 22 Q. Is this a copy of a document --

02:14:12 23 A. -- passed around or is this the copy that's in
02:14:16 24 the --

02:14:17 25 THE COURT: Mr. Bohrer, let the attorney ask

02:14:19 1 the question to clarify.

02:14:23 2 Q. Is this a copy of the document that you had in your
02:14:29 3 box that you turned over to Investigator Pietroski and
02:14:33 4 Investigator Johnson on March twenty-first of 2013?

02:14:41 5 A. It looks like a copy of something that I wrote.

02:14:50 6 Q. When you wrote this document, did you put in this
02:15:07 7 document that you wondered that she, Heidi Allen, referring
02:15:12 8 to Heidi Allen, was not on the schedule, so you wondered
02:15:15 9 how anyone knew she was scheduled to work that day?

02:15:19 10 THE COURT: Hold on. Don't object because I
02:15:22 11 don't think I understand the question before you stand
02:15:23 12 up and object. Can you rephrase the question? I
02:15:26 13 didn't understand the question.

02:15:27 14 MS. PEEBLES: I'll rephrase it.

02:15:28 15 THE COURT: Thank you.

02:15:29 16 Q. As part of your literature, did you adopt the
02:15:34 17 statement, you yourself, that you wondered how anyone knew
02:15:43 18 she was working that day because she wasn't on the
02:15:47 19 schedule?

02:15:48 20 MR. MOODY: I'm going to object, Judge. I
02:15:50 21 don't see the relevance of this, and I don't see how
02:15:52 22 she -- is she refreshing her recollection with the
02:15:54 23 question because it's also leading.

02:15:58 24 THE COURT: I'm going to sustain the
02:16:00 25 objection.

02:16:03 1 MS. PEEBLES: For the record, I'm asking him
02:16:05 2 if he's adopting that statement that's in his
02:16:07 3 literature.

02:16:10 4 THE COURT: We don't know if it's in the
02:16:12 5 literature. You're saying it's in the literature. I
02:16:15 6 don't know if it's in the literature.

02:16:16 7 MS. PEEBLES: I'm asking him the question if
02:16:19 8 he adopts that statement.

02:16:20 9 THE COURT: What statement? You're presuming
02:16:21 10 there's a statement in the literature. I don't know
02:16:23 11 there is a statement in the literature.

02:16:25 12 MS. PEEBLES: Well, if I could move this
02:16:26 13 document into evidence, we would all know.

02:16:28 14 THE COURT: Well, you could if it doesn't
02:16:29 15 violate the rules of hearsay.

02:16:32 16 MS. PEEBLES: Well, I disagree with the Court.

02:16:33 17 THE COURT: I understand that.

02:16:36 18 Q. Does this document reflect your investigative
02:16:44 19 efforts into the disappearance of Heidi Allen?

02:16:48 20 A. It -- it would have to because that's all I was
02:17:03 21 doing was trying to find out what happened to Heidi. I had
02:17:11 22 a lot of people coming forward and giving me bits and
02:17:16 23 pieces of stuff and --

02:17:22 24 Q. And you said that the psychic that you were
02:17:27 25 conferencing with knew things that she shouldn't know. You

02:17:32 1 said that earlier when I was asking you questions about
02:17:34 2 her, do you remember that?

02:17:35 3 A. It appeared to me that she -- she had a lot of
02:17:43 4 details that if she was -- I'm assuming she's telling me
02:17:52 5 this came from her head, you know, it just -- I don't know.
02:18:12 6 She was just a woman that -- that said hi, my name is
02:18:16 7 Trudy, and she introduced herself as somebody who had
02:18:25 8 psychic ability, that's it, and oh, I guess the thing that
02:18:36 9 intrigued me, is that what you're asking?

02:18:39 10 Q. Yes.

02:18:40 11 A. I heard the same story line from someone else that
02:18:47 12 she was repeating to me as the psychic.

02:18:52 13 Q. But you took away from the conversation with her
02:18:55 14 that she knew things that she shouldn't have known, fair?

02:19:00 15 MR. MOODY: Objection, Judge, leading.

02:19:02 16 THE COURT: I'll allow it.

02:19:04 17 A. Well, she didn't know who has talked to me about
02:19:11 18 what in the -- in the previous of meeting her. That's what
02:19:22 19 intrigued me. Like I've heard the same story, when you're
02:19:27 20 investigating something, and you're looking for
02:19:34 21 commonalities.

02:19:35 22 Q. Did anyone hire you as an investigator?

02:19:37 23 A. No.

02:19:38 24 Q. Now, in addition to Joyce Babbitt on exhibit --
02:19:43 25 Defense Exhibit 130, your signature is on this document

- 02:19:45 1 too, correct? Do you need to look at it, Mr. Bohrer?
- 02:19:52 2 A. Yeah. Yep. That's my signature.
- 02:20:07 3 Q. Is your signature on every page of that document?
- 02:20:14 4 A. Yep. Yeah.
- 02:21:19 5 Q. Is the date on every page of that document?
- 02:21:21 6 A. Yes.
- 02:21:22 7 Q. And you wrote this in 1996?
- 02:21:29 8 A. That's what it says.
- 02:21:32 9 Q. Now, Mr. Bohrer, in 1996, did you visit Gary
- 02:21:50 10 Thibodeau in the Clinton Correctional Facility in
- 02:21:55 11 Dannemora?
- 02:22:07 12 A. I think I wrote that document way earlier than that.
- 02:22:13 13 Q. Okay, I'm not asking you about the document, I'm
- 02:22:16 14 asking if you ever went to visit Gary Thibodeau in 1996 at
- 02:22:22 15 Clinton Correctional Facility in Dannemora.
- 02:22:26 16 A. I don't recall the year.
- 02:22:30 17 Q. Did anybody go with you?
- 02:22:31 18 A. Yes.
- 02:22:32 19 Q. Who?
- 02:22:33 20 A. Trudy Lortie.
- 02:22:35 21 Q. And why did you take Trudy Lortie to visit Gary
- 02:22:39 22 Thibodeau in the Clinton Correctional Facility?
- 02:22:42 23 A. She begged me to take 'em there because she wanted
- 02:22:48 24 to get a psychic feel if he did it or not.
- 02:22:53 25 Q. Did you feel bad for Gary Thibodeau when you went to

02:22:56 1 visit him at the Clinton Correctional Facility?

02:22:59 2 MR. MOODY: I'm going to object, Judge.

02:23:00 3 THE COURT: Sustained.

4 A. Well --

02:23:05 5 THE COURT: Don't answer the question.

6 THE WITNESS: Don't?

02:23:09 7 THE COURT: Don't please.

02:23:13 8 Q. Let me ask you this. Did Gary Thibodeau know that
02:23:16 9 you were going to the Clinton Correctional Facility to
02:23:18 10 visit him?

02:23:19 11 MR. MOODY: Objection to what -- how she can
02:23:21 12 tell what Mr. Thibodeau did or did not know.

02:23:23 13 THE COURT: She can lay a foundation.

02:23:25 14 Q. Mr. Bohrer, did you notify Mr. Gary Thibodeau that
02:23:31 15 you were going to come see him at the Clinton Correctional
02:23:34 16 Facility?

02:23:34 17 A. No.

02:23:34 18 Q. You just showed up there?

02:23:38 19 A. Yes.

02:23:38 20 Q. Did you only show up there one time?

02:23:43 21 A. Yes.

02:23:44 22 Q. I'm going to ask you some questions now about an
02:24:07 23 individual by the name of Dan Barney. Do you know who Dan
02:24:10 24 Barney is?

02:24:10 25 A. Yes, I do.

- 02:24:11 1 Q. And how do you know Dan Barney?
- 02:24:15 2 A. He punched out Joyce Babbitt's son-in-law.
- 02:24:28 3 Q. Is that how you know him?
- 02:24:29 4 A. Yes.
- 02:24:30 5 Q. Okay, when did that happen?
- 02:24:32 6 A. It's -- it's hard to put events at on or before. I
- 02:25:05 7 I don't remember when that occurred.
- 02:25:09 8 Q. Do you have any recollection as to whether it was in
- 02:25:12 9 the nineteen-nineties or past the year 2000?
- 02:25:15 10 A. No, would have been the nineteen-nineties because I
- 02:25:22 11 was living on Mason Road.
- 02:25:23 12 Q. What -- what year were you living on Mason Road?
- 02:25:26 13 A. Ninety-one to -- I don't remember when I moved out
- 02:25:44 14 of it.
- 02:25:46 15 Q. So did -- is that the only time you ever had any
- 02:25:54 16 encounters with Mr. Barney?
- 02:25:56 17 A. I -- that wasn't an encounter. I learned of him.
- 02:26:02 18 Q. I see. Were you present when anything occurred or
- 02:26:07 19 you just heard about it?
- 02:26:08 20 A. No.
- 02:26:10 21 Q. Have you ever met Dan Barney?
- 02:26:14 22 A. I had the -- on one occasion.
- 02:26:23 23 Q. Okay, so you actually met him on one occasion.
- 02:26:26 24 A. Um hum.
- 02:26:27 25 Q. Okay, can you tell me when that was to the best of

02:26:29 1 your recollection?

02:26:30 2 A. Probably the next day after he had punched Don out
02:26:39 3 he -- I made a comment, and somebody told him my comment,
02:26:47 4 and he wanted to bash my face in. I was at Spinners.

02:26:55 5 Q. And you -- you encountered him at Spinners?

02:26:59 6 A. That was the -- yeah, the first time I actually seen
02:27:03 7 this guy.

02:27:03 8 Q. Was that the first and last time you ever saw him?

02:27:07 9 A. Yeah.

02:27:12 10 Q. In your notes do you make reference to Dan Barney,
02:27:26 11 do you recall?

02:27:27 12 A. I'm answering that because I been reminded. I don't
02:27:46 13 know how to answer that question.

02:27:47 14 Q. Honestly? Just answer it honestly.

02:27:53 15 A. Can you say the question again?

02:27:55 16 Q. Did you refer to Dan Barney in your notes?

02:27:59 17 A. Yes, I have.

02:28:00 18 Q. And those notes were in connection with your
02:28:03 19 investigation with Heidi Allen?

02:28:06 20 A. They would have to be I believe.

02:28:12 21 Q. Do you refer to this bloodstone ring? You ever hear
02:28:29 22 of that?

02:28:29 23 A. Yes.

02:28:30 24 Q. And when you reference that, is that the same page
02:28:32 25 that you had Dan Barney's name on?

02:28:36 1 MR. MOODY: I'm going to object, Judge. Now
02:28:37 2 she's reading from a document that's not in evidence
02:28:40 3 and asking him --

02:28:40 4 THE COURT: Sustained.

02:28:41 5 A. I don't have photo --

02:28:43 6 THE COURT: No, don't answer the question.

02:28:45 7 Q. Well, let me ask you this. When you were questioned
02:28:48 8 by Investigator Pietroski and Investigator Johnson in March
02:28:53 9 of 2013, on March twenty-first, did you tell them to beware
02:28:59 10 of the man with a bloodstone ring?

02:29:02 11 A. I told them that was a quote from Mark Hall.

02:29:06 12 Q. But you mentioned the bloodstone ring?

02:29:09 13 A. Yes, I did.

02:29:10 14 Q. Now, Mark Hall, you mentioned Mark Hall. Is Mark
02:29:16 15 Hall in any way related to Trudy Lortie that you know of
02:29:19 16 whether by blood or marriage?

02:29:22 17 A. I don't know that she was.

02:29:31 18 Q. Did you -- do you recall as part of your
02:29:44 19 investigation writing down "who dropped the card?"

02:29:55 20 MR. MOODY: Objection, Judge. Leading and
02:29:58 21 relevance.

02:29:58 22 THE COURT: Hold on for a second. I didn't
02:30:00 23 hear your objection. What's your objection?

02:30:02 24 MR. MOODY: It's leading. Source of knowledge
02:30:04 25 and -- and relevance.

02:30:05 1 THE COURT: It's not leading, but foundation,
02:30:09 2 I'd grant you that one. Lay some foundation if you
02:30:15 3 can, Ms. Peebles.

02:30:15 4 Q. When you were doing your investigation between 1994
02:30:18 5 and 1996, and you were jotting things down, taking notes,
02:30:30 6 yes or no?

02:30:32 7 A. Yeah, you seen.

02:30:38 8 Q. And part of the notes, do you recall writing down
02:30:44 9 "who dropped the card," do you recall that?

02:30:47 10 MR. MOODY: Objection, Judge, relevance.

02:30:49 11 THE COURT: Well, she hasn't laid a foundation
02:30:52 12 he actually knows. He can say what he thinks but he
02:30:55 13 has no foundation how he knows that. No foundation
02:30:58 14 properly laid yet.

02:30:59 15 Q. Well, you were doing an investigation in this case,
02:31:01 16 you're saying you did, right, correct?

02:31:05 17 A. Yes.

02:31:07 18 Q. All right, tell me the years that your investigation
02:31:10 19 spanned, from when to when?

02:31:16 20 A. I guess for twenty years. Whenever something popped
02:31:33 21 up.

02:31:36 22 Q. You wrote it down?

02:31:38 23 A. No.

02:31:42 24 Q. But if it was important to you in terms of your
02:31:44 25 investigation, you would write it down?

02:31:48 1 A. I would have to assume so.

02:31:58 2 Q. Well, I don't want you to assume. Did you?

02:32:07 3 A. Repeat the question please.

02:32:09 4 Q. As part --

02:32:11 5 MS. PEEBLES: Could you read that back please?

02:32:13 6 (Whereupon, the court reporter read back the

02:32:33 7 last question).

02:32:34 8 THE WITNESS: Can you repeat it please?

02:32:35 9 (Whereupon, the court reporter read back the

02:32:44 10 last question).

02:32:44 11 THE WITNESS: Can you say it slower please?

12 (Whereupon, the court reporter read back the

02:32:46 13 last question).

02:33:00 14 A. Mostly so I could remember and refer back to.

02:33:05 15 Q. And how often did you refer back to it?

02:33:11 16 A. When I felt I needed my memory refreshed.

02:33:14 17 Q. How often did you refresh your memory?

02:33:21 18 A. I don't know.

02:33:23 19 Q. Throughout the course of years between 1994 and

02:33:31 20 2013, how often did you look in the box of items that you

02:33:34 21 had in relation to Heidi Allen?

02:33:37 22 MR. MOODY: Judge, I'm going to object. I

02:33:38 23 don't see the relevance.

02:33:39 24 THE COURT: Sustained. Don't answer the

02:33:44 25 question, sir.

02:33:46 1 Q. On April third of 1994 you were -- we established
02:33:54 2 you were living at the Spinners hotel, right?

02:33:58 3 A. I'm -- I'm getting --

02:34:15 4 Q. Do you need to take a break, Mr. Bohrer?

02:34:18 5 THE COURT: I don't think that's his
02:34:19 6 testimony. I thought he had testified that soon after
02:34:21 7 he spent sometime at Spinners, he then rented the four-
02:34:24 8 bedroom ranch.

02:34:26 9 MS. PEEBLES: No. He went to a wedding at
02:34:28 10 Spinners and then he went to the ranch and then he went
02:34:31 11 back to Spinners.

02:34:31 12 THE COURT: Okay.

02:34:34 13 THE WITNESS: Yeah, but we're talking a span
02:34:36 14 of years. I'm sorry but --

02:34:54 15 THE COURT: There's no question before you,
02:34:56 16 sir, so please be quiet.

02:34:58 17 MS. PEEBLES: Well, there is actually, Judge.

02:35:00 18 THE COURT: Well, he answered he doesn't
02:35:02 19 remember.

02:35:02 20 Q. Oh, now you don't remember living at the Spinners
02:35:04 21 hotel on April third of 1994?

02:35:09 22 MR. MOODY: Objection, Judge.

02:35:11 23 MS. PEEBLES: No, I'm asking him if he
02:35:13 24 doesn't -- now he doesn't remember. How is that
02:35:15 25 argumentative?

02:35:16 1 THE COURT: I'm going to allow the question.

02:35:19 2 You can answer the question.

02:35:23 3 A. I've got so many numbers in my head right now I'm
02:35:29 4 confused where I'm at in time.

02:35:31 5 Q. Mr. Bohrer, you know that the interview with
02:35:35 6 Investigator Pietroski and Investigator Johnson on March
02:35:39 7 twenty-first of 2013 was recorded, you know that, right?

02:35:43 8 A. Yes.

02:35:45 9 Q. If you listened to that recording, would that help
02:35:50 10 refresh your recollection about where you were living on
02:35:52 11 April third of 1994?

02:35:57 12 A. I'm sorry, I'm --

02:36:19 13 THE COURT: Sir, do you need a couple minutes?

02:36:21 14 THE WITNESS: Yeah. My brain's turning to
02:36:23 15 rubber, Your Honor.

02:36:27 16 THE COURT: Okay, let's recess until ten of
02:36:30 17 three. Any objection?

02:36:31 18 MS. PEEBLES: No, that's fine . That's kind of
02:36:32 19 an in between -- Judge, I'm assuming that I'm not going
02:36:40 20 to get to Jennifer Wescott today so I'm going to let
02:36:43 21 her go if that's okay.

02:36:53 22 MR. OAKES: Your Honor, can we approach?

02:37:00 23 (Whereupon, there was an off the record
02:37:01 24 discussion at the bench).

02:51:26 25 (Whereupon, there was a recess.)

02:51:54 1 THE COURT: Mr. Bohrer was on the witness
02:51:56 2 stand when we adjourned. When we recessed, excuse me.
02:52:01 3 It would appear that at this time it would be best for
02:52:06 4 Mr. Bohrer to wait until -- resume his testimony
02:52:09 5 tomorrow morning at nine o'clock. I think everybody
02:52:12 6 involved would agree this is an extremely emotional,
02:52:15 7 difficult situation. Any objection from you, Ms. --
02:52:19 8 actually from the Public Defender Office.

02:52:22 9 MS. PEEBLES: No, Your Honor.

02:52:23 10 THE COURT: Mr. Oakes?

02:52:23 11 MR. OAKES: None from the People, Your Honor.

02:52:25 12 THE COURT: We're at three o'clock. We could
02:52:27 13 call another witness, but I think from a procedural and
02:52:30 14 tactical point of view, it serves both the Public
02:52:34 15 Defender and the People to put a witness on at this
02:52:36 16 time is a disadvantage for your direct, it's a huge
02:52:39 17 disadvantage for your cross, so there is no objection,
02:52:41 18 I'm going to adjourn for the day. I don't like wasting
02:52:44 19 an hour, but I think in light of just the nature of
02:52:46 20 this case, this is probably the best thing to do at
02:52:49 21 this time. Any objection from the defense?

02:52:51 22 MS. PEEBLES: No, Your Honor.

02:52:52 23 THE COURT: From the People?

02:52:53 24 MR. OAKES: No, thank you.

02:52:54 25 THE COURT: We stand in recess until nine

02:52:56 1 o'clock tomorrow morning. Ms. Peebles, you said you
02:52:59 2 may call a witness out of order.

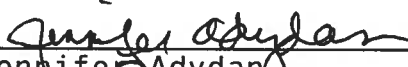
02:53:01 3 MS. PEEBLES: May be calling one of our
02:53:04 4 cadaver dog experts.

5 (Conclusion of Proceeding).

6 * * *

7 C E R T I F I C A T E

8 I, JENNIFER ADYDAN, an Official Court
9 Reporter in and for the State of New York, Fifth
10 Judicial District, do hereby certify that the foregoing
11 is a true, complete and accurate transcript of my
12 stenographic notes taken in the above-entitled matter
13 and the whole thereof to the best of my ability.

14 
15 Jennifer Adydan
16 Official Court Reporter

17 DATED: January 25, 2015
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